

Present: Supervisor Newlin; Council Members Ceretto, Kilmer, Johnson, Langlois; Tn. Atty. Leone; Deputy Tn. Atty. Boniello; Engineer Britton; Finance Officer Evert; Deputy Supervisor Elgin; Adm./Op. Lockhart; Bldg./Zoning Officer Coulter; Police Chief Winkley; Recreation Director Dashineau; Highway Supt. Reiter*; Tn. Clerk Brandon; 3 Press and 40 Residents. (* 7:50 p.m.)

The Supervisor opened the regular meeting, followed by the Pledge of Allegiance and a moment of silent reflection. The Supervisor noted the passing of the former Town Clerk and Councilwoman M.B. Brado.

The Supervisor asked if any resident wished to speak at this time.

RESIDENTS:

Diane Roberts of 4391 Autumn Lane. When the roadwork was done on Model City Road near Smoking Joes, the topic came up about a right hand turn. The traffic was backed up the hill today because cars were waiting to turn right. There is no area to make a right hand turn. This should be addressed to the Highway Dept. or DOT.

William Farthing of 5966 Garlow Road. I have a petition from the residents of the area. "We the residents of Garlow Road are greatly concerned about the safety of that road as a result of the increase in traffic for purchases made on the reservation. These issues are as follows: 1) there are not adequate shoulders on the road for bikers and walkers to get out of harms way during the frequent travels that vehicles make on our road. This is a very dangerous and possibly deadly situation for the residents and children of our road. We think a solution would be to install asphalt shoulders on both sides of the road that are comparable to what the Town of Niagara has generated on their portion of Garlow Road. 2) There is not a signal light at the intersection of Garlow Road and Saunders Settlement Road. This raises great safety concerns for all residents of our area as well as vehicles who travel these roads. That proposal would be to install a traffic light at that intersection. We the residents would like to see that proper safety measures be taken as to reduce these concerns in a timely and efficient manner."

Lewiston Council on the Arts:

Irene Rykaszewski: We wanted to inform, update and invite the Town Board to upcoming events. There will be a Seaway Trail VIP tour on June 8th @ 4:30 p.m. and ask that the Board Members attend and make brief remarks. Thanks to Mike Johnson for attending the Cross Border Blues media conference held last week to publicize the release of a national marketing piece that we are in conjunction with five other non-for-profit groups. We are publicizing the blues program on both sides of the border that will be distributed in southern Ontario and throughout W.N.Y. We want to inform the Board that we will not be doing the Taste of Lewiston this year. We will be taking a one-year hiatus and will bring in back to Center St. in 2005. We felt that given some of the difficulties that the businesses in Lewiston are having in supporting the event that it is better to take a hiatus and restructure the event. We have had some ownerships in influx and scheduling with the Allentown festival. It has been difficult for some of the owners to support us this year. We had a wonderful Barton Hill tour this weekend, which was a fundraiser.

Eva Nicklas: I would like to invite the Board and everyone here to Blues Mondays, Swing Wednesdays and the Fine Arts Festival and other events the rest of the year.

Newlin commented that your efforts are very much appreciated and you are a great asset to Lewiston.

AGENDA:

Johnson: I would like to add the HPA consultant agreement, which will help consolidate the communication services here in the Town.

In addition, I would like to comment that there is a couple of the council members who have issues on their agenda that I am the liaison too and I thought we agreed to discuss these issues under the liaison items. I don't know if I can answer any of the questions because I have not heard from anybody on those issues. I think this Board needs to allow at least the liaison to be aware of items that are on the agenda.

Ceretto MOVED to approve the Agenda as amended. Seconded by Johnson and carried 5-0.

MINUTES:

Johnson MOVED to approve the Minutes of 4-12-04 Work Session; 4-26-04 P.H. re: Riverwalk Final Plat; 4-26-04 P.H. re: Lew. Fire Co. #1 Contract and 4-26-04 RTBM. Seconded by Ceretto and carried 5-0.

POST AUDITS:

Kilmer MOVED to approve payment to Home Depot \$134.05; Office Max \$934.50; Sam's Club \$429.54 and HSBC Bank USA \$10.81. Seconded by Johnson and carried 5-0.

OLD BUSINESS:

L.L. 3#, 2004 Amendment to Cluster Housing Law in its entirety:

Leone: I don't think the Board can vote on it tonight. You don't have the opinion yet from the Environmental Cmte. on this particular version. Nor, have you heard from the N.C. Planning Board so I don't think it is right to vote tonight. The hearing was fine, but the vote I don't think can occur tonight. I checked with outside counsel and he concurs.

Ceretto: For those who are here and interested in this cluster housing law, can we say when this will appear on our agenda again?

Leone: It has to be on your desk in final form, seven days before you vote. So, it is a question of when the Environmental Commission is meeting (May 25th) and when the N.C. Planning Board is meeting. (June 21st.) I suggest that you get an opinion from the N.C.P.B. before you give a final

Ceretto: So, the 28th should be a vote?

Leone: On or about or thereafter.

Newlin: I would like to make this comment as a point of information to the public. Lewiston up until recently was a much easier place for a public official to have open and free discussions with the public when they had questions for them. With regards to this matter, the local law, I have gotten phone calls and as Mr. Quaranto mentioned his attempts to try and reach me and those days because of the onslaught of litigation, I had to change how we behave as Board members. To that, on the advice of legal counsel, **no Board member, nor employee of the Town should have direct communications with a member of a party that is suing the Town.**

Leone: It just makes common sense. If you are a party/plaintiff in a lawsuit and you are on the other end of the lawsuit, you would be communicating with the other party. Communications typically goes through attorneys at that point. My feeling in representing this Board and this Town, my client is no different than a client who comes to my office and retains me. I am certainly going to suggest that that client not have communication with the person who they are suing or are suing them. It certainly doesn't prevent any member of the public from getting public information, which they are entitled to. There are FOIL requests that are certainly allowed as to any public information. But as to comments by the Board over matters that are in litigation, it just makes common sense not to do it.

Newlin: I understand from one or more people that when they call or speak to Town Board members or staff that there is a recording device which is their right under NYS law but I can imagine what I might say maybe taken out of context and look very poorly if a law suit ever gets as far as the courts which I hope is not the case. I hope that clarifies some things for the members of the public who do wish to engage us in a direct conversation and members of this Board and myself whose hearts are in the right place with our desire to inform the public. Considering the society we have come to live in, we have to be mindful of our duties as elected officials and responsibilities to the Town.

Langlois: Who are the parties to this so that we know whom we shouldn't be talking to? We get calls and we represent citizens and we want to give them as much information as we can and we feel that we have an obligation to keep them informed but if we don't who the parties to the suit is we wouldn't know if we were talking to somebody that we shouldn't be talking to.

Newlin: I am aware of some of the people who are involved in the suit.

Boniello: I asked Mr. Giacalone exactly who he represents and there are only four or five individuals named in the lawsuit but he does represent a group. Regarding Mr. Langlois' question is that I don't believe the topic should be discussed since it is in litigation. I don't want to put the Town in a position where one councilman said this and another may have said that jokingly maybe used for or against the Town or these individuals in litigation. The topic is part of the litigation.

Newlin: Your point is that it is not just a matter of to whom we speak, it also the content.

Boniello: I would like to point out what Mr. Leone said that these individuals are entitled to FOIL requests and their attorney will tell you during litigation that they are entitled to certain discovery over and above and beyond the FOIL, which they may pursue.

Kilmer: For the council and from what Mr. Boniello has just stated, I have some issue because I was on the other end of some misinformation and I have rebutted this misinformation in the *Sentinel* last week and is that something I should withdraw? I am just not going to let people slander nor tell untruths about this project and myself. It is just inappropriate the way they have approached this thing.

Newlin: Perhaps, Mr. Kilmer you should direct your proposed response or rebuttal to counsel and see what they have to say about it.

Leone: We will look at it.

Langlois: I will reiterate your comment that it is unfortunate that you have to be afraid that some one is recording your conversation (one-way) when you are talking to a citizen on the phone. I find that unnerving to find out after the fact that your conversation has been recorded without your knowledge. I know the law allows it but it doesn't seem like good policy.

CORRESPONDENCE:

Item #1: The Planning Board meeting in regular session on April 15, 2004 reviewed a request from Arlene Deering for a one-lot subdivision on the east side of Ransomville Road, SBL# 76.00-2-16.3. Attached is the response from the Environmental Commission and the Niagara County Planning Board.

Langlois MOVED for a Neg Dec on the subject property. Seconded by Johnson and carried 5-0.

Langlois MOVED for approval of the subject property SBL# 76.00-2-16.3. Seconded by Johnson and carried 5-0.

Item #3: On May 31st, the VFW will hold their annual Memorial Day parade in the Village. Following services at the VFW Memorial in Academy Park, food and refreshments will be served at the Lew. Fire Co. #1 Fire Hall. As in the past, any assistance, physical or monetary is greatly appreciated. Received and filed.

Item #3: We are writing to you on behalf of the Lake Ontario Ordnance Works (LOOW) Restoration Advisory Board (RAB). We understand you have requested specific and direct communication between RAB and the Town Boards of Lewiston & Porter. The RAB Steering Cmte., which includes representatives from the Army Corps, CWM, RRG and citizens invite the Town Boards to a special session on LOOW activities, which also includes the NFSS, prior to our next public meeting tentatively scheduled for June 9th at the Lewiston Senior Center. Please contact us to indicate if your Board would like to meet at 5:30 p.m. on June 8th or to request another convenient time.

Langlois: This is follow up to a request that I brought to the Town Board and some of the technical committee talked to us what they are doing and where we are with this. The RAB Cmte. thought that the Town Boards could meet early before the public meeting and have a special session. (The letter was received and filed.)

Item #4: A petition for the Town to replace the guardrail at the end of Roosevelt Ave. "Due to construct on the street, an access to Niagara University Drive was opened to allow for construction vehicles to enter Roosevelt Avenue from the dead-end section of the street. We do not want vehicle traffic to enter from this opening; therefore, we are requesting a guardrail be put across the opening that would only allow for pedestrian traffic."

Johnson: I would like the Engineer and the Highway Supt. review this request.

KILMER:

Item #1: Agricultural Water Rates: Being an agricultural community, we had been thinking about doing this when we first took office 2 years ago but the Water Dept. was in such deplorable financial condition we couldn't go that way. Now with the Water Dept. having a healthy balance and it is back on track, I am going to recommend to the Board that we give the farmers some relief in this area. You have a copy of my letter regarding the surrounding towns and the comparable rate sheet for what they charge. We presently charge \$3.00 per 1000 for a farmer to irrigate his fields. I am recommending to the Board that we reduce that rate to \$1.50 per 1000 and administer at the beginning of the year. This would be next year, not this year. The rate would be good for this year but as discussed in the letter the \$100 deposit would start as of next year because a number of farmers already have their meters. \$100 deposit is to make sure that we get it back so we can read it. In talking with some farmers, that rather than bring it back every year we would have a policy for deposit. They would like to just keep the same meter, bring it in and have it read and then keep the \$100 deposit on account.

The following would be in a form of a MOTION.

I would like to read my letter. After some research, I have discovered that the Town has one of, if not the highest, water rates for irrigation in the county. After studying the surrounding towns and their rates, I am proposing that we cut the rate for irrigation to \$1.50 per 1000 gallons. It is presently \$3.00 per 1000 gallons. It costs the Town 70¢ per 1000 gallons, so we would still be making enough to help offset any infrastructure costs in the future. I would also suggest a \$100.00 deposit on the meter. This rate would only be in effect from April 1st to October 1st. This rate is only for farmers that irrigate, spray and plant their crops. It is not for residents with large gardens or sprinkler systems for their yards. The intent of this rate adjustment is to help the agricultural community.

Evert: To avoid any confusion, irrigation meters are typically run off of the hydrants. Irrigation meters can be construed as something that is on a person's property. I would suggest that you use the term hydrant meters.

Leone: We have a Tri-Community Agreement with regard to the operation of the water plant and we have to make sure that your proposal here complies with the terms of that agreement.

Lockhart: As I understand it with what was just read, most agricultural activity takes place outside of the sewerred areas, so the hydrant issue would not come into play. If it were to be in a sewerred area, the language in the existing contract that Town Atty. Leone drafted that was consistent with the Planning Board language that set forth what constitutes an agricultural area. As Mr. Kilmer has described, I don't think there would be any difficulties with the existing contract.

Newlin: We have a Tri-Community meeting this week and maybe we can bring it up there and check with both our counsels.

Kilmer: We are always going to have a problem with irrigation.

Johnson: I think it is a great idea except I would like to have it on the work session agenda as I would like to check with the attorneys because we have some meters put out there for other purposes, for irrigation and I want to make sure that is clear.

Langlois: Dan make a good study of this and examples of what other towns charge and it doesn't make sense that our farmers have to pay several times what other people are paying and paying 4 times the cost of water. I think it is appropriate that we do this.

Ceretto: I would like to see relief for the farmers as far as the water rates, but if there is a surplus in the water (which there is now) and there was an increase in the water rates, I think we should try to reduce the water rates for the other residents in the Town of Lewiston and especially for the summer time where the water used doesn't necessarily go into the sewer system. Maybe we could look at the sewer rates. There should be a relief for all residents.

Kilmer: I would ask that you withdraw your motion and it will be acted on at the next work session.

Kilmer agreed.

Langlois: For the past two years, I have brought up the subject that we have a base rate for water and then an excess rate for those who water their large lawns etc. and it was put off last year because we were putting in meters and it was going to be difficult. Now, that we have water meters, I think the idea of having some kind of a base rate that pays sewage and then the amount above that is used for watering lawns and gardens is something we should look into putting in to effect. There is no surplus of water in our area and we could save people money and also they would not be afraid to water their lawns etc.

Item #2: Highway Budget: It really wasn't a liaison issue, Mr. Johnson. I understand on being on the short end of a decision-making process, but we have to do something about the highway budget when you add personnel and I am hoping that you (guys) have got that work done. We have an agreement that was signed after the Article 78 decision that you won't overspend your personnel line.... well, I don't want to put Mr. Reiter in a predicament that he is going to over spend his personnel line because he is not going to have enough to get to the end of the year. We all know that.

The other part coincided after we returned those 3 men back to work, the editorial simply stating "we have to reduce government and reduce costs for the taxpayers." I am appalled that sometimes we went backwards a little bit when we were saving the taxpayers such a large amount of money. You need to read the article. If we

continue to grow government, we grow our children down to No. Carolina and Florida.

Newlin: We have had a meeting with the Budget Officer, Mr. Johnson, Mr. Reiter and myself discussing the transfers that will be necessary to accommodate the additional personnel. We will have another meeting this week. I would like to remind you that had we pursued the litigation we would have had to find the money for those lawsuits.

Item #3: Pletcher Road Fence: I would like to know a time frame on this issue. I have had residents calling me on this and I would appreciate a date on this.

Item #4: Rental of Equipment w/o Board Approval: I was doing the abstract and I noticed and again, this is just a point and it has to be read into the record until I make my point. Whenever, equipment is rented by Mr. Reiter, the Town Board has to approve it. We have asked him to go out and get bids on these pavers and now they have all been rented except that he did get permission for the one on Fairway Drive. It was also rented for the parking lot out at Pletcher Road. We have never seen the 3 bid- process. It is mandatory that we follow that. We want the best rate for the taxpayers and that isn't by continuing to use the same person to rent the equipment. It is the same person, time and time again to rent the same equipment. I look at the abstract and it is the same person every time. I never see cross our desks three proposals to rent their equipment. I would like to see this adhered to. I have discussed this at least 3-4 times and renting equipment is mandated by State law to come through this Town Board.

Item #5: Police Fleet Oil Changes: On the abstract we are being charged by the Highway Dept. for this. I think that Mr. Reiter has to give a flat rate for changing oil. Some bills are as high as \$48.00 for an oil change. Other places that do this charge around \$21.00. I like that our police cars are being serviced by our mechanics that do a good job, but we also have to do at a reasonable rate. It is a budget savings for them. I would like this revisited. Maybe a rate sheet should be put together.

Winkley: The biggest convenience that we have with the service down at the Highway Dept. is we don't have to tie up somebody to drive us to a service station. Our mechanics do a great job. Would I like to save money? Yes. But, I would like to have the convenience too. Perhaps, I can sit down with Mr. Reiter and discuss this.

Johnson: I don't think Mr. Reiter is charging you any more than anybody else. I will get you a cost breakdown on it.

Item #6: Amending Justice's Salary. During the budget session, we had taken a pay freeze one year, than a pay cut basically by eliminating the medical benefits for part time elected officials. We thought it was an appropriate thing to do. But what we inadvertently didn't do as legislatorswe can take things away from ourselves and rightfully so but we affected the justices that they are making actually less than they were making two years ago because of pulling away their extra benefits.

Kilmer MOVED to amend the Justice's salary and add \$1000 to their salary.

Kilmer: It is still not anywhere near what they were getting in benefits but I think we have all been talked to by them. It is time to get it out in the public and vote on it. I think it is time we take a position on it.

Leone: I don't see a problem on going forward but I don't think it can be done by resolution. My recollection is that once an elected officials salary has been set the only way it can be increased during the fiscal year is by local law and that local law is itself subject to a permissive referendum. I will get you a written memorandum. I would ask that you not vote on it tonight.

Kilmer: It keeps coming up and I want to get it off my agenda. I need some finalization on it.

LANGLOIS:

Item #1: Salary Increase/Judges: I would like to comment on the salaries of the judges. During the budget sessions we had said that because we took away health benefits for part time elected officials and part time employees and I said during those sessions we should increase the salary for part time elected officials including judges by approximately \$1000 per year because we were cutting their salary by \$1200 to \$1500 a year so it is still a net savings in the budget. The proposal was turned down because there was an election coming up and someone didn't want to vote for increasing the salary even though there was a net decrease in actual pay to the judges and the council people. It was very unfair in my view to cut the salaries of the judges and of the part time elected officials to do that. Mr. Kilmer is suggesting that we correct that at least as far as the judges are concerned. But the same thing applies to council people. We also have a reduction in take home from before. It is not that we should get increases but we shouldn't get decreases.

Item #2: Liaison Reports:

Environmental Commission: Mr. Britton attended the last meeting and gave a presentation on drainage and talked about the environmental aspects of it. If an issue comes up in the future we should have Mr. Britton there.

Item #3:

Engineering re: Water Lines: I suggested previously that we look at some additional areas to put water lines in. We floated a 5 million-bond issue to improve the infrastructure for water. We went out to bid for certain areas in the town that were most in need of improvement. The contract with change orders has come to about 3.5M. We have 1.5 M left that could be used to further improve the water lines in areas that are most in need of it. Mr. Britton has suggested those areas most in need of improvement and they are Cayuga Drive/Walker Drive (area #10) and Dana Drive/Bronson Drive (area #11). The cost breakdown is \$427,070. Mr. Yarussi is using the same unit prices for this extra work that was used on the initial bid. The total would bring the bond to 3.9M.

Langlois MOVED for authorization for this additional work on the subjected areas (#10 & #11) as proposed in the amount of \$427,070. Seconded by Johnson.

Britton: We looked over a lot of different areas and the critical things that were looked at were increase in pressure, fire hydrants, safety, and co-mingling with other improvement projects that are going on. I believe that these are the next two highest priorities. I am preparing a full list of other areas that have issues. I give Mr. Yarussi credit that he will hold his prices and costs have gone up since the original contract. We are getting this portion of the project done much cheaper.

We ranked and prioritizing by conferring with Mr. Nablo on what other areas are you having significant breaks in. He provided me with a list and we went over the maps. I put together a cost estimate to see what it would take to redo all of these. We wanted to attack an area and get it done. I asked which one were the highest priorities and then we ranked them and had a short list. We met with Mr. Langlois and went over these.

Kilmer: The Bronson Drive section of this was just paved and it was not on the paving schedule. We have a somewhat newer line (16" main going down Bronson) and we discussed why don't we just go under the road to the houses on the left side and tap that main. We could use a large portion of the \$111,000 to do Bronson and maybe we could do Elliott and James Drive or The Circle. Unless you can give me a good engineering reason not to tap that main which no one has been able to give me one, it is just simply not proper procedure. There is no reason not to tap that main all the way from Route 104 down Creek Road. That main is tapped by every house.

I just think it would be a huge savings to have them tap the main instead of trenching the roads and doing the work that needs to be done.

Britton: We had looked at that option. There are two options along Bronson. There is 16" transmission line and the theory is they are transmission lines and they are not there for house service. From transmission lines you run distribution lines off. One option is to tap that and that 16" line has been tapped all the way down Creek Road. We felt that it would be better to leave it alone. The question was does it jeopardize the integrity by tapping that 16" line? Not from what I have seen, no. Standard practice is to run an 8" distribution lines and leave your transmission lines alone. That was the rationale. One of the problems we could encounter is that there are actually boulders in that area and when you have this you can't push new services across. When you have new services you need to have either all earth or all rock to push. If there are boulders in the area, we may have to open cut and that would be minor.

Kilmer: I am looking at \$111,000 vs. where could it be best used in the next area that you determine needs to be replaced. We have a serviceable water line in the ground.

Britton: There is a special tap that would probably cost about \$50,000 to do the taps in lieu of running new lines.

Langlois asked what the cost difference between doing it two ways?

Britton: Probably \$55,000. I am not worried about the integrity of the 16" line but I am concerned about the standard practices is to leave the 16" alone as much as possible. Mr. Langlois and I have discussed the other option. We also have to do some special taps to the hydrants.

Johnson: I think is a good idea especially with the problems on Creek Road Ext. But when you meet have you included Mr. Reiter? (I have not) I would like you to include him. My idea is to get enough bonding money and get it done properly like we have in other areas. (i.e. Fairway, Gorge View) Mr. Reiter needs to know that as soon as you get the lines in because people will be asking when are you going to pave my street. In the future, I would ask that you include Mr. Reiter so that he and I can discuss getting money together. I think it is a good idea and I am in support of it.

Newlin: The capital improvement and maintenance requirements on construction in this Town are considerable. We should take advantage of the low interest rates and get as much done as we can under relatively cheap bonding.

Langlois: When we come with new suggestions for what we want to do, we should talk with Mr. Johnson since we didn't know we were going to do this until we vote on it. As result of asking to have some water meters checked, we were able to determine that we didn't need to do the section of water lines on Ward Road. The lines were in good condition and it didn't serve any useful need to spend \$100,000.

Kilmer: We didn't know Bronson Drive was going to be paved last year and we knew that Bronson was a possible fix. It got paved without our knowledge.

On the Motion, carried 5-0.

Item #4: West Nile Virus: We have received correspondence from the N.C.H.D. regarding this and it is available to the public. We approved buying dunks for those who want to put them in stagnant water and they are available at the Town Garage.

Johnson asked if we are going to think about a re-spray of any kind as he has been getting calls regarding this.

Langlois: You need to have a licensed person to do the spraying. If it becomes a real plague, I think the County would have to do something and we could work with them.

Kilmer: Mr. Sharpe did this work last year and it is \$35,000 to the spray the wooden areas only. I stand firm on that we should spend the money because you cannot go anywhere at night without being bitten. We use to spray and the mosquitoes were not the bad. I am on record that if you want to find the money in any fund I'll spray.

Newlin: Mr. Langlois, I will ask that you research other options by perhaps approaching the County and bring your findings to the work session.

Langlois: It is not easy to get spraying approval and we have a number of people who have allergic reactions to the spray. It is not a slam-dunk deal.

Item # 5: Drainage-ROW. On March 30, 2004 I asked the Supervisor and the Highway liaison to investigate why drainage pipe was being installed on property on Simmons Road without the owner previously buying the required pipe. Town policy is that drainage pipe is purchased and the installation is done by town forces as time allows. I appreciate the follow up by the Supervisor and perhaps also Mr. Johnson on this item because the installed pipe was subsequently invoiced on April 7th and was paid last week in the amount of about \$700.00. So, your follow up on this has had some success. Mr. Reiter did invoice the person and they did pay the bill. We do have a procedure to use and it would be great if it were followed. If you would ask Mr. Reiter to be sure that the pipe is paid before installed.

CERETTO:

Item #1: WPCC:

Ceretto MOVED to declare the 1994 Chevrolet Caprice as excess equipment and be allowed to advertise for sealed bids as is. Seconded by Johnson and carried 5-0.

Ceretto MOVED to declare the 1988 GMC pickup truck as excess equipment and be allowed to advertise for sealed bids as is. Seconded by Kilmer and carried 5-0.

Item #2: Recreation: Accept the resignation of Justin Birmingham, a member of Parks & Recreation Advisory Committee. Also, that the Clerk send a letter of thanks.

Ceretto MOVED to accept the resignation of J. Birmingham. Seconded by Johnson and carried 5-0.

Ceretto MOVED that we advertise that a vacancy exists on the Parks & Recreation Committee. Seconded by Johnson and carried 5-0.

Water Garden for Pletcher Park: We received funds for a Spathold Memorial and the money is in the parks budget.

Ceretto MOVED to create a water garden at Pletcher Road in the amount of \$200. Funds to come from the Parks budget. Seconded by Kilmer and carried 5-0.

Kilmer stated that there have been positive comments about the conditions of the parks from the public.

Item #3: Golf Course Update: All of the addendums and contracts for the golf course are done. The SEQR is being paid for by the developer and there will be no more costs to the Town. In two weeks the Town will have the environmental study completed. We will accept that and then there will be a 30-day comment period.

Britton: We are progressing with completion and working with DEC on specific items within that documents. I am awaiting correspondence from a couple of the state agencies. I should have this to the Town Board before the next work session and the Board should review it.

Ceretto: When the committee met, there were questions regarding when you go to referendum, will the Village be part of it, is it a Town project? Based on this I am going make the following motion.

Ceretto MOVED that Deputy Tn. Atty. D. Boniello be directed to ask the Village of Lewiston for their position on the Golf Course with respect to support. Seconded by Johnson.

Kilmer: If you fund it in the "A" fund it is a whole town expense. As elected officials for the whole Town, I don't really think it is necessary.

Langlois: I spoke with the attorneys and their auditor for the Assoc. of Towns and they said it is an "A" fund and it is whole town and the Village residents get to vote on it. They also get the benefits. It is a whole town expense.

Newlin: I think this motion is just an offer to see what the level of interest is in the Villages' participation.

Ceretto: I think it would better for this project to succeed if the representatives from the Village indicated that they support it. Nobody likes another entity telling you what to do. Since I have been on this committee, I have tried to get comments, information and questions from the public and I look at the Village in the same way.

Johnson: I think if Mr. Boniello puts the wording right saying that we are consider this in the "A" fund which encompasses the Town and Village together and that with their support when a public hearing or referendum is possibly held that this would be in the "A" fund.

Ceretto: The Village may want to send a representative to our committee to work with us.

Langlois: We are representing all of the people in the Town including the Village, just as they voted for us and just as they are supporting the Highway Supt., the seniors. It is a whole town. This is redundant. If you want to get comments from them it is fine.

Motion carried 5-0.

Item #4: Bike Path: The Village had sent us a letter regarding the bike path. Our committee reviewed it and they have asked that we look at the bike path proposal of a few years ago, which goes from Mohawk to Center Street and ends at Niagara Univ. (Follows the parkway). This would be a connection to those residents above the hill. In 2000 we secured a multi-modal funding program, a legislative member item, a State parks enhancement grant and also from the NYPA and it was a 50-50 grant. With the grants to the Town it was mostly labor.

Ceretto MOVED for the support of the Lewiston Town Board in seeking funding for the extension of the bike path. Seconded by Johnson.

Mr. Ceretto indicated that he, Mr. Reiter and Mr. Dashineau will be doing the search for grants.

Carried 5-0.

Item #5 – Bike Path Signage Prior to Mohawk St. Mr. Reiter stated that the Signage Cmte. met and the appropriate sign has been installed.

Item #6: Kiwanis Park: At the June 7th Kiwanis meeting I will be asking them for support of the infrastructure improvements at the park.

Ceretto: The Golf Course Committee will meet on June 3rd and the Zoning Codification Cmte. will meet on June 2nd & 16th.

JOHNSON:

Liaison Reports:

Item #1: Cable Commission. The contracts are being reviewed by the attorneys. I will report back by June or July.

Item #2: HAZMAT: The Hazmat Dept. has asked for a transfer from their equipment line to their contractual line in the amount of \$8000 for the purchase of a trailer and a tent.

Johnson MOVED to transfer \$8000 from A8080.0200 to A8080.0400 Hazmat to cover the cost of a trailer and a 20 x 40 tent. Seconded by Kilmer. Carried 5-0.

Hazmat Cmte. will be meeting on May 26th and the Fire Bureau will meet on May 27th.

Item #2: Highway and Drainage Report: You have the report on this as submitted by Supt. Reiter. I need to work with the sewer and water departments so that we are all informed and we should not be talking about paving unless we know where we are going. I will report back after I meet with Mr. Reiter.

Items #3: Celebration Fund: Regarding the Sanborn Fire Co. request for fireworks, we need to authorize the transfer.

Johnson MOVED to take from Contingency, \$2000 to B7550.4 Celebrations for the Sanborn Fire Co. fireworks. Seconded by Ceretto and carried 5-0.

Item #4: Model City Road Traffic: I was here today when the traffic problem occurred. We need to address this issue at the work session. I have been in contact with Mr. Borgese of the DOT with respect to Creek Road and I am awaiting his response.

Item #5: Garlow Road Petition: We need to address the shoulder situation as well as the other concerns of the residents. Everything we do is going to cost us money. Mr. Reiter has already given us his paving budget from last year. Mr. Britton has put together his own projects, as has Mr. Reiter for road repair. At a work session we should decide what direction we are going. We also need to look for grants and funding etc. At the last work session we did discuss some drainage issues. Mr. Britton is working on the temporary easement for Autumn Lane area. I would like to address these capital projects and funding and put together a wish list. Funding will be another issue. I would like to designate a portion of the work session to discuss these items and your comments are appreciated.

Langlois: Mr. Britton and I met with the specialist they have on highway repairs and a way that you should go through to evaluate the usage of the roads, the condition of the roads, the types of repairs that should be made and the type of drainage for the roads. There is a special program that is available that can be done and you can be sure then that the roads most in need of being fixed and are fixed and correctly. We might consider having this specialist work with us on this as we go through this overall paving project.

Kilmer: Every road that we pave from now on should be a recommendation from our engineering firm on how to prepare the base. We have roads that are less than 6 months old breaking apart up on The Circle. It is unacceptable. If we spend that kind of taxpayer's money to go back into that area to fix it again, we can't be doing

that. I don't know if that happen for the roads that were paved already but I would like to make that in a form of a motion that any road that are paved from here on out, Mr. Britton's recommendation on how to do the roads.....our guys are good workers but they need to know how to lay blacktop and how to put it in.

Johnson: You don't need to make a motion because that is exactly what we are going to do and that is what we have been meeting on a regular basis for. If you look at Meadowbrook and Fairway where we milled it down and we are going to put the road in right and you are right. I will talk with Mr. Reiter about holding back on anything else until we look at Mr. Britton. Mr. Britton has said that there is company that does test the ground and we are working on it.

Item #6: HPA Consulting Group: We met with them to discuss retaining them to analyze our telecommunications services. They will at no cost to the town review our records and if there is any reimbursement due the Town we will split it. the attorneys have agreed to look at this agreement. They will also go over our cell phone issues and give us recommendations on that.

Johnson MOVED to allow the Supervisor to sign an agreement with HPA Consulting Group on a consulting basis. Seconded by Kilmer and carried 5-0.

Item #7: Power Authority: We have attended meetings on this and I think we need to sit down and talk about where Lewiston fits into the puzzle with the re-licensing issue. One issue they are talking about is a possible reduction in power, which everybody would like to see. There are maybe monetary monies that would come in. There are FERC issues that I think we can address immediately on issues of the Town that are environmentally and recreational that Lewiston needs to look at. I think all of us have been involved in it, but it is time for us to give the direction to the Supervisor as to what Lewiston feels is fair. I think we need to call a meeting on this.

Newlin: Thank you Mr. Boniello and Mr. Johnson for attending in my absence. I think that this Board can consider for your next work session perhaps setting up a public hearing to hear some comments from the public and see if there are any needs out there that we may not be aware as a Board. I think as a Board it would behoove us to try identify the priorities and needs this Town should be asking for in this negotiation process. We could at that time set up a date for a public hearing.

Ceretto: Maybe we can establish a committee that can work through this process to insure that Lewiston get its well-deserved profits.

Kilmer: I have read minutes from the re-licensing meetings and some of the issues that we thought were important are not on it any more. I think we as a Board need to meet and if we are going to have a public hearing on it which I don't disagree with that when we announce it what our priorities already are in the paper so that.....most of a us agree on fire and police protection and we could fill this room up with them and we all understand that these are things that we are shooting at. So when we do the announcement let's do it in a way that we can save people time and what we are shooting for.

Langlois: I think during the opening meeting at the Town, all five of us are on the Power Authority Cmte. working together and we should all try to attend them when we can. There have been at least two public hearings for the overall public and I have attended them and they were poorly attended. If you want to have one here, I guess we could.

NEWLIN:

Item #1: *Sentinel Issue*: There were some articles in the *Sentinel* this past weekend that implied that this Board was seeking to conduct private business or covering up major decisions. For the benefit of the public and the press that is here, if you (the attorney) would as a point of information and for example, I had asked Mr. Spitzer at the last meeting can these items regarding the proposed cluster housing law be

discussed in public and his firm advice was that it should be discussed in executive session. This Board has tried as much as possible and prefers to conduct business in public but there are simply times we can't do that. I will ask the counselors to comment why at times we do need to conduct business in executive session.

Leone: There are plenty of reasons and they are legal. Basically, government is to be done by the people, for the people, open to the public. New York State has an open meetings law but there are provisions in that law that allow for an executive session. For instance, personnel matters, litigation, seeking advice of counsel are some of the obvious and apparent reasons that you can go into executive session. I consider the Town Board no different than my other clients. If a client is seeking my advice, I think we meet with that client alone and give the client the advice, especially if there is litigation that is pending or is threatened. It is not as though what is being discussed in executive session isn't ultimately going to get in front of the public. It ultimately may, but not at that particular point in time. Sometimes when you are dealing with litigation or personnel matters or advice of counsel, these are things that would be discussed by a citizen in private with their attorney can be done by the Board in private with their attorneys. It is not a question of trying to hide or secrete information. It is just good business practice.

Item #2: Creek Road: In my absence we received a call from a Creek Road resident who was one of several people that complained about the obvious drainage problem. He stated that he had contacted the DOT and they told him the Town has never filed a formal request or seeking a finding with DOT with regard to the drainage problems on Creek Road. I discussed this with Mr. Johnson and I find this a little bit shocking. Mr. Johnson, would you tell me what happened last year?

Johnson: We had a meeting here at the Town Hall, which was brought together by Assemblywoman DelMonte. Dave Britton, Mr. Langlois and 4 representatives from the DOT were there as was Chuck Stojak and Mr. Evert. We talked about the Model City/Indian Hill Road scenario and they were going to come up with another study, which we have not received as yet. In the meantime they allowed us to let Mr. Reiter pull the signs down. Mr. Stojak was there because he has been arguing about this problem on Creek Road. For the DOT to tell you that after they said they were going to do a study. They told us they don't care about the pipe in the ground, it is up to the Town of Lewiston to replace it even though it is their ROW and it is up to the people to pay for the pipe. Steve has been doing 2 or 3 jobs on Creek Road now and we have billed a customer totally for the pipe. We have accordingly for those jobs that we are doing but when you get down to the end of Creek Road, you have 36", 42" pipe. I said to the DOT at that meeting that you expect to have a resident pay like you would do a little piece of pipe in front of your house and he has 150" to 200" frontage. I would like to get that person who told you and ask him primarily who he talked to at DOT. We spent at least one to one and a half hours on Creek Road Ext. and they said they would do a study that they have not cleaned it out properly going all the way down. They would do a flow study and they would get back to us.

Newlin: I wanted to make the Board aware that somebody at DOT thinks we have not been following through on Creek Road and I find that ludicrous and I am going to follow up.

Item #3: Joe Davis Park – Birds of Prey: Deputy Sup. Elgin would like to enlighten the development that we have pending.

Elgin: I am asking if I could get the Board to agree to a resolution to give somewhat of a push to the State Parks and the Governor on behalf of the their interest in the Joe Davis State Park. It is almost two years ago now, that the Joe Davis Committee had met and decided we would give up our interest in Joe Davis Park in lieu of some economic benefits that the Parks could do in that park. The idea of the "Birds of Prey Center" came up and everyone seemed to be very eager to get it running including the Audubon Society. An agreement has been drafted between the Buffalo Audubon Society and the State Parks and everyone has agreed

to the terms of the contract including most of the officials of the State Parks with the exception of one problem, which are the terms of the contract. There seems a discussion as to whether or not a 10-year term or a 20-year term is the appropriate means to go with the contract. It literally has been held up for over 6 months on this one technicality. The Birds of Prey Center and the Buffalo Audubon Society is very interested in getting going on this. Everything that they have got right now is on hold until such time as a MOU can be signed. So, what I am asking for our Board to do is to accept the resolution as was presented to push Gov. Pataki and Commissioner Castro into resolving this issue. Step into the legal issue and let's get this thing over with because it is in the Town's best interest.

Kilmer asked whom the argument for the terms was between?

Elgin: Two different legal factions within the State.

Supervisor Newlin MOVED for the adoption of the following Resolution:

Whereas, the Town of Lewiston has a vested interest in the success of a new Educational Attraction at Joseph Davis State Park and was an active participant in the plan to bring this center to our area;

Be It Resolved, that the Lewiston Town Board requests that the Governor of the great State of New York along with the Commissioner of New York State Parks intervene in the agreement approval process that is currently held by the legal department of New York State Parks and by this intervention resolve the apparent impasse that is preventing the agreement from being signed. Furthermore, requesting that follow up information be forwarded back as to a date that the issue will be resolved.

Seconded by Kilmer.

Ceretto: It is a very worthy project and it would be an asset to Lewiston. The State has made so many promises in the past regarding Joe Davis Park that they haven't come through. I hope that they will resolve this.

Newlin: I would like to thank Mr. Elgin and the people working on the Birds of Prey Center.

Langlois: Wasn't there timing on the grant for this?

Elgin: Absolutely. There has been a lot going on to keep that in the Niagara Cnty. Environmental Fund and happy during that period of time. They have been extremely gracious in granting the additional time in order to be able to work out this. Their patience is running thin.

On the Motion, carried 5-0.

Motion by Kilmer to Move into an Executive Session. Seconded by Johnson and carried 5-0.

The Board briefly reconvened so that the Supervisor could recognize the retirement of Finance Officer Edward Evert and thanked him for his service and friendship.

Time: 9:10 p.m.

Executive Session:

Present: Supervisor Newlin; Council Members Ceretto, Johnson, Kilmer and Langlois; Deputy Sup. Elgin; Tn. Atty. Leone and Dpty. Tn. Attorney Boniello.

No action took place.

By mutual agreement the Board adjourned at 10:30 p.m.

Respectfully submitted and transcribed by:

Carol J. Brandon
Town Clerk