

JUNE 11, 2007

Worksession

7:00 p.m.

Present: Supervisor F. Newlin; Councilmen A. Bax; S. Edwards, M. Johnson & E. Palmer; Dep. Sup. E. Elgin; Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; Finance Officer A. DiRamio; Rec. Dir. M. Dashineau; Dep. Clerk C. Schroeder; 2 press; 10 residents

The Supervisor called the meeting to order at 7:09 p.m., followed by a moment of silence in remembrance of Joseph Hoffman, a student at Lewiston-Porter who tragically lost his life in a motor vehicle accident this past Friday.

On behalf of the Town Board, the following items were added to the agenda: 1) Set date for Public Hearing re proposed changes to contract with Modern Landfill; 2) Golf Course Update; 3) Repair of tennis courts at Kiwanis and Colonial Village parks; 4) Approval of Hickory Stick Golf Club SDEIS and Site Plan; and 5) Executive Session matter re Personnel (Police Chief).

The Supervisor recognized Ryan Joseph Nesbitt by the reading of a proclamation honoring his achievement of the rank of Eagle Scout. Ron Shaw, Director of the Lewiston Library, read a letter on behalf of the Friends of the Library citing Ryan's dedication and efforts in becoming an Eagle Scout. Mr. Nesbitt assisted in the Friends of the Library's annual book drive for his scout project.

Newlin MOVED acceptance of the Proclamation proclaiming Eagle Scout Ryan Joseph Nesbitt as an outstanding individual of the Town of Lewiston. Seconded by Bax and Carried 5-0.

Modern Contract: Newlin said the Board would consider at this time setting a public hearing with regard to a possible contract alteration with Modern Landfill. He deferred to Atty. Boniello to provide an update as to where they are and to advise the Board as to the context of the hearing. Boniello noted that Modern Landfill submitted an application to the DEC to increase its rate of waste acceptance at the Landfill from 3493 tons per day to 4800 tons per day. The DEC submitted a letter dated 5/22/07 to the Town of Lewiston requesting concurrence with designation of the Department as SEQR Lead Agency. At its last meeting, the Town Board, by unanimous resolution, requested the DEC's consent to allow the Town to act as Lead Agency to determine potential impacts and benefits to the Town. A letter was sent to the DEC on 5/30/07 indicating such action.

As part of Modern's application, the Town would have to adopt a local law at some point amending its Waste Disposal and Landfill Law (Chapter 24C) to allow for the increase in waste accepted by an additional 250,000 tons per year. The hearing, Boniello said, would be solely for the purposes of allowing the public to comment on Modern's application and the direct benefits and impacts to the Town.

If the Town wishes to proceed, there would be an amendment to its Host Community Agreement (HCA) with Modern as far as any benefits to the Town. Bax said he wanted to hear the public's concern on this issue. He MOVED to schedule a public hearing on Monday, June 25, 2007 beginning at 6:00 pm.

Leone asked for clarity to what the public hearing is for. Bax said it was to receive public comment on the application itself.

Gary Smith, President of Modern, said he would make a presentation at the hearing as to the modification to the HCA. He would make these amendments available in the Town Clerk's office for public review.

Newlin asked if there would be further need for a public hearing to amend the Host Community Agreement. Leone said he would check into that.

Edwards said he understood the need to get public input on Modern's application but the purpose of the hearing is to amend the local law. Is that correct?

Boniello said if that is not part of the notice then it would require another public hearing. I think you want to do both. You want the comments and the change. Bax concurred. One inextricably has something to do with the other, he said. The amendment to the law basically says that we are going from a fixed number to a reference to an agreement. We're going from 808,000 tons per year to saying it will be regulated by the Host Community Agreement. But, in modifying the Host Community Agreement, there are certain things that Mr. Smith has suggested that are in the package that the public needs to be made aware of.

Bax clarified his Motion to schedule a public hearing on the amendment to the Town Code, Chapter 24C, "Waste Disposal & Landfills" and to received comment on Modern's application on the proposed design capacity increase. Seconded by Palmer and carried 5-0.

Golf Course Update: Newlin said a ground-breaking ceremony took place on Friday (6/8) by the Seneca Nation for the golf course project. He anticipated an opening date in 2009.

Lannon referred to a letter dated May 2 addressed to Robert Martinez, Planning Board Chairman. CRA Engineers reviewed the Preliminary and Final Site Plans for the Hickory Stick Golf Club. The Planning Board had approved the Site Plan contingent upon incorporation of the items mentioned in CRA's letter. Lannon asked the Town Board to consider the same.

Edwards MOVED for the approval of the Hickory Stick Golf Club Supplemental DEIS and Site Plan Review, as submitted. Seconded by Johnson and carried 5-0.

Police K-9 Program: Newlin said he received an update from Chief Winkley that one of the scent dogs that the department had requested became available. The Police Commissioners (Newlin, Mayor Soluri and Robert Sdao) assembled for an emergency meeting to discuss the program and approved it. The paperwork is being filed. A drug dog offers law enforcement and school administrations the ability to deter drugs among youths in school, Newlin said. Besides narcotics, this dog could help with missing persons. The K-9 program would be on a trial basis for a year or two. They would be seeking donations from various organizations to help offset the yearly maintenance costs, i.e. food, veterinarian costs, etc.

Palmer said a K-9 dog offers a tremendous public relations advantage for law enforcement to meet people in the community. Also, communities from across Western New York have assisted Lewiston for years when we are in trouble and need dogs. It's a good opportunity for us to give back and become a larger member of the Western New York police contingent.

Johnson asked if this dog would be allowed to go into other communities. Newlin said this was a concern of his also. It will be up to the Police Chief and his successor to develop a policy as to how the dog could be called out.

Newlin said the dog should be available before month's end. The Police Department is looking at its list of officers interested in housing the dog. They are going thru a process to see what officer would be best suited.

Approval of Abstract: In auditing the abstract, Johnson said there were several claims submitted for mileage. Inasmuch as there are several town-owned vehicles parked at town hall, he recommended that employees utilize these cars for town business to the best extent possible as supposed to submitting claims for mileage for use of their own personal vehicle.

Johnson MOVED to approve the Abstract of Claims, Nos. 1516 - 1916 and recommended payment in the amount of \$398,046.31; plus a post-audit of \$150,931.99. Seconded by Bax and carried 5-0.

Ken Wendt Propane: This is in reference to a request from Paul Wendt for the installation of three (3) new above-ground fuel storage tanks at Ken Wendt's Propane Gas Service at 5910 Ward Road. Johnson said a public hearing was held by the Town Board on 6/4. The Pl. Bd., on 5/17, recommended approval pending review of the Fire Inspector. Johnson said the Bureau of Fire Prevention met on 6/7 and offered its approval based on the following contingencies:

- Yearly on-site training will be offered to the Fire Service, coordinated by and through Wendt's Propane, for the purpose of keeping all Emergency Responders up to speed on the NFPA Codes and safety response to the facility.
- Wendt's Propane will work with the First Responders: Fire Service, Medical Service and Police in developing a written Emergency Response Plan, prepared and originally approved by First Responders and updates as necessary.
- A Deluge Gun monitor system will be installed for the safety and security of the community with the location and number of guns to be field-determined at that time.

When the tanks are in place, it is understood that they will not be filled until the above contingencies have been met and approval is given by the Fire Inspector.

Johnson MOVED to issue a Negative Declaration on the Wendt's Propane Gas Service Expansion project as recommended by the Environmental Commission. Seconded by Edwards and carried 5-0.

Johnson MOVED to approve the installation of three (3) new above-ground fuel storage tanks at 5910 Ward Road, pending the above-referenced contingencies of the Fire Bureau. Seconded by Edwards and carried 5-0.

Subdivision (Waiver of Fees): Due to the absence of the Kilmer Family, Newlin said this matter would be tabled.

Alarm Fees/Training Fund: Johnson said he would meet with the Budget Officer to go over budgetary matters.

Bldg. Review Process: Bax suggested setting a department head meeting to meet with the Town Board at its next worksession (7/9) beginning at 6:30 p.m. for the sole purpose of discussing the building review process and the path developers need to take as they approach the town with new projects.

This was in the form of a motion. Seconded by Palmer and carried 5-0.

Recreation: Bax said there are some serious repairs required for the tennis courts at Kiwanis and Colonial Village parks. The Director is obtaining estimates for the cost to repair the courts. He would update the Board at the next meeting.

Moratorium on Excavation Permits: Leone said the local law before the Board is to amend the Excavations Law, Chapter 8D of the Town Code; the purpose of which to impose a 9-month moratorium on certain excavation permits within the Town. Leone said there is a provision within the local law to allow exemptions that exist within the statute to remain. There is also a provision that would not affect any applications currently applied for. The idea, he said, would be to enact the most comprehensive local law dealing with excavation, and ultimately a complete local law revamping, re-codification of the zoning ordinance.

Newlin MOVED for the adoption of Local Law #1, 2007, an amendment to the Excavations Law imposing a 9-month moratorium on the issuance of certain excavation permits. Seconded by Bax and carried 5-0.

Repair to Sidewalk: Lannon referred to a request from the Trustees of the Evangelical Church for necessary repairs to the sidewalks in front of both the

church building and the rectory house at 5861 & 5865 Buffalo Street. The sidewalk is cracked, uneven and with some parts sinking into the ground. Lannon said there is a 60-ft. length of the sidewalk in poor condition. He estimated \$4,000 to repair it.

Edwards said this matter needs to be addressed immediately. It is a public safety hazard. There is a possibility for potential liability.

Edwards MOVED to authorize CRA Engineers to solicit 3 written quotes for the repair of the sidewalk at 5861 & 5865 Buffalo Street. Funds to be allocated from the Town's infrastructure account. Seconded by Bax and carried 5-0.

In the near future, Edwards said the Board must enact a Sidewalk Law. It would address the Town's and homeowner's responsibility with respect to the maintenance of a sidewalk. Edwards said he would obtain a copy of the ordinance of the City of Niagara Falls. He would address it at the next meeting.

HVAC Unit Supports: Edwards said in January, the Board approved payment for repairs to the structure of the town hall building for the roof top unit. The Town contracted with STC Construction, Inc. in the amount of \$10,657.00 to proceed with the work with funds allocated from Capital Account H-55.

Edwards MOVED to authorize payment to STC Construction. Seconded by Johnson and carried 5-0.

Now that the structure has been repaired, Edwards asked Eng. Lannon to follow up and have Duncan Heating return to finish the job with respect to the HVAC roof top unit.

Recreation: Bax referred to a request from the Recreation Director for approval of the following applicants for positions as Recreation Counselors for the summer of 2007:

Meredith Dziewit, \$8.00 p/h; Frank Faso, \$8.00 p/h; Ryan Hogan, \$8.50 p/h; Shannon Holfoth, \$8.00 p/h; Shane Landers, \$8.00 p/h; Joshua Lewis, \$8.00 p/h; Ashley Mason, \$8.00 p/h; Brendan McDermott, \$8.50 p/h; Anthony Morreale, \$8.00 p/h; Sara Morreale, \$8.00 p/h; Kevin Rhoney, \$8.50 p/h; Carly Spatar, \$8.00 p/h; Elizabeth Taibi, \$8.00 p/h; Derek Tracy, \$8.00 p/h; Brianne Kennedy, \$8.00 p/h; Julie Quarantillo, \$8.00 p/h; and Stephanie Myers, \$8.00 p/h.

Bax MOVED for approval. Seconded by Johnson and carried 5-0.

Model City Road Speed Limit: As an adjunct to the issue with Modern, Bax said one of the concerns he has heard from residents was the speed on Model City Road with respect to the truck traffic and the safety issues raised by trucks traveling at such speed.

Bax MOVED to modify the speed limit on Model City Road between Rt. 104 and Swann Road, pending any compliance with the NYS DOT. Seconded by Palmer and carried 5-0.

Palmer said this is one of several agreements the Town has made with Modern with respect to the on-going negotiations as part of the new deal for garbage. It's one of the ways we are protecting the residents of the Town.

Budget Transfer: Edwards referred to a request from the Town Clerk for a transfer of \$500 from A1620.4 (Town Hall Contractual) to A1620.2 (Town Hall Equipment) to cover the replacement cost for the purchase of a lawn mower and weed whacker.

Edwards MOVED for approval. Seconded by Bax and carried 5-0.

Roster Additions: Johnson referred to a request from the Sanborn Fire Company to submit for active membership the following individuals: Trevor Hollenbeck, 5479 Bridgeman Road; Kelly Ess, 5479 Bridgeman Road; Heather Coder, 3092 Shenk Road (T/Cambria) and Robert Bell, Ward Road (T/Wheatfield).

Johnson MOVED for approval. Seconded by Bax and carried 5-0.

Executive Session: Newlin asked for a motion to enter into executive session to discuss 1) two personnel issues; 2) contract negotiations; and 3) seek private advice of counsel with regards to a risk management issue.

Palmer MOVED to enter into executive session, Seconded by Bax and carried 5-0. Time: 8:25 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk

Executive Session:

Present: Newlin, Bax, Edwards, Johnson, Palmer, Elgin, Leone, Boniello

Issues discussed:

1. Possible Lawsuits
2. Personnel – Police Department
3. Personnel – Clerk’s Department
4. Contract Modifications (Host Community Agreement)

Motion by Johnson, Seconded by Palmer to exit executive session and reconvene worksession. Carried 5-0.

Action:

1. Settle claim by Shawn Carr not exceeding \$500 subject to general release of funds.
2. Settle claim by Josephine Lauzonis not exceeding \$650 subject to general release of funds.
3. Refer letter from Town Clerk to Ethics Board for hearing & report.

Palmer MOVED for approval of said action. Seconded by Johnson and carried 5-0.

Bax MOVED to adjourn. Seconded by Edwards and carried 5-0. Time: 9:45 p.m.

Minutes Transcribed by:

Dave Boniello
Deputy Town Attorney

Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk