

**JUNE 12, 2006**

**Public Hearing re Sex Offenders**

**6:30 PM**

PRESENT: Sup. F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson, & G. Pacioni; Town Atty. J. Leone; Dep. Atty. D. Boniello; Finance Officer A. DiRamio; 1 Press; 1 Resident; and Dep. Clerk C. Schroeder

The Supervisor opened the public hearing at 6:42 p.m. The Clerk read the public notice as follows:

**LEGAL NOTICE IS HEREBY GIVEN that the Town Board of the Town of Lewiston, will hold a public hearing at the Town Hall, 1375 Ridge Road, Town of Lewiston, on the 12<sup>th</sup> day of June, 2006 at 6:30 P.M. to hear all interested parties and citizens for or against the adoption of Local Law #1, 2006, a proposed local law requiring the registration of Level II and Level III sex offenders with the local police department and prohibiting Level II and Level III sex offenders from residing within a radius of 1,000 feet of all schools, playgrounds, parks, day care centers, nursing homes, assisted living facilities or fire halls. A copy of the proposed text of the law is on file in the Town Clerk's office where it may be examined during normal business hours.**

The Supervisor asked if any member of the public wished to speak on the subject matter. No one did.

**Johnson MOVED to close the public hearing. Seconded by Pacioni and carried 5-0.** Time: 6:45 p.m.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk

**JUNE 12, 2006**

**Worksession**

**7:00 PM**

PRESENT: Sup. F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson, & G. Pacioni; Town Atty. J. Leone; Dep. Atty. D. Boniello; Finance Officer A. DiRamio; Eng. Lannon; Water R. Nablo; 9 Residents; 2 Press and Dep. Clerk C. Schroeder

The Supervisor called the worksession to order at 7:08 p.m. He noted that the Board held a brief public hearing that evening at 6:30 p.m. No member of the public spoke at the hearing.

1). **L.L. #1 - 2006**: In January, the Supervisor said the Town Board would make it a priority to pass a local law that would restrict where sex offenders could move into the Town of Lewiston. Similar laws have been passed in other towns but they have been challenged in court. We've tried to use the lessons learned from those previous experiences to make the best law we could, he said. We'll have to see if it can withstand any future court challenges that may or may not come. We're more or less restricted to zoning ordinances – restricting where people can move. Hopefully, in the future our state and national governments will work more closely on this issue and come up with a national registry for sex offenders with mandatory sentencing guidelines and a nation-wide genetic data base so offenders can be traced as they move around the country. Atty. Leone was asked to summarize the proposed law.

Leone said the law that been prepared and in front of the Board this evening emanates from the NYS Correction Law. The proposed law requires Level II and Level III sex offenders to register with the Town Police within 10-days from the time they have been released from custody after conviction, regardless if they are on probation, parole or have served time. The proposed law gives in detail what kind of information they are required to provide -- identifying criteria the Police Department deems necessary. Level II and Level III sex offenders are not permitted to live within 1,000-ft of schools, playgrounds, parks, daycare centers, nursing homes, assisted living facilities and fire halls. Those of our citizens who are most vulnerable should also be those who are the most protected, he said. Leone said he used a 1,000-ft radius criteria based on a case that was challenged by the American Civil Liberties Union of a 1,500-ft. radius. The case was settled before going to trial. The settled feature with the ACLU was 1,000-ft.

Leone said he inserted a clause in the proposed law that anyone entering into a contract with the Town shall notify the Town of any such sex offender in its employ and the name of that person's immediate supervisor. The failure by any contractor to comply with this provision allows the Town to negate such agreement. Leone suggested that from here on out, any town contracts have a clause to that affect.

**Newlin MOVED for adoption of Local Law #1, 2006 – Registration of Sex Offenders, as presented. Seconded by Edwards and carried 5-0.**

**A copy of the text of Local Law #1 – 2006 is on file in the Town Clerk's office.**

2). **Approval of Abstract: Edwards MOVED to approve the Abstract of Claims, Nos. 1410 – 1825 and recommended payment in the amount of \$533,629.18. Seconded by Bax and carried 5-0.**

**Edwards MOVED to approve payment of post-audit claims in the amount of \$352,950.85. Seconded by Johnson and carried 5-0.**

3). **Sanborn Streetscape:** Gary Townsend, 5682 Townline Road, spoke on behalf of the members of the newly formed Streetscape Steering Committee with regard to a proposed plan to develop a Streetscape for the Hamlet of Sanborn. The proposed area is located on Ward Road/Buffalo Street/Rt. 429; South from Rt. 31 to the Lewiston/Wheatfield town-line.

Urban Engineers has been consulted to work with the Sanborn Professional Business Association on the plan. The project, Townsend said, will qualify for Federal Funding (80%) but requires a local sponsor for the remaining 20%, of which 75% of that local share would be reimbursed by State Funding. The project is anticipated to have a \$2.0 Million construction cost.

Townsend said the committee recommends retaining Urban Engineers for a fee of \$200 to prepare the grant application. Along with that, the Town Board would have to consider if it is willing to commit \$100,000 to a \$2.0M project.

Donald Smith, P.E., Urban Engineers said the project is eligible for the Transportation Enhancements Program. The deadline for filing for the program is June 30, 2006. "It's a federally funded program... They need to be assured that there is somebody that is willing to sponsor the local share. The local share is initially 20% of the \$2.0M or \$400,000. There is a State Marchiselli Program which will reimburse the Town for 75% of that \$400,000 – leaving a balance of about \$100,000."

The project, Smith said, consists of lighting, sidewalks, curbing, decorative décor, parking, etc.

Edwards said he has met with the Streetscape Committee several times. They have done a really good job in a short three weeks. Time is of the essence. We have to get this project underway if this Board feels they want to pursue this project.

Townsend said there are over 100 antique vendors in the area. The streetscape would enhance the antique business as well as other businesses that already established and would attract new businesses in the area as well, including the burgeoning wine industry in Niagara County.

**Edwards MOVED to approve a fee of \$200.00 payable to Urban Engineers to prepare the grant application for the Transportation Enhancement Program for the Sanborn Streetscape Project. Seconded by Johnson and carried 5-0.** Funds to come from A-Fund Contingency.

**Edwards MOVED to authorize the Supervisor to sign the application for the Transportation Enhancement Program / Sanborn Streetscape upon approval of town counsel. Seconded by Johnson and carried 5-0.**

4). **Culvert Pipe Refund:** Edwards referred to a memorandum from Supt. Reiter relative to a request from Mrs. Jamie Kukovica for a refund of \$300.24 for culvert pipe that she no longer wants to have installed at her residence. **Edwards MOVED for approval of the refund. Seconded by Johnson and carried 5-0.**

5). **Riverwalk/Preliminary Plat:** Bax referred to a request from Developer Joe Deck for some minor changes to the existing approved preliminary plat for Riverwalk to include the following:

- Re-numbering of the future phasing buildout to more accurately reflect the quantity and location of the lots to be developed.
- Reduction in the density of the approved preliminary plat from 157 to 155 lots.

The Planning Board, on May 18, 2006 recommends approval of the changes with the following contingencies:

1. All requirements that applied to the project will also apply to the new Phase 2C in the project.
2. The Town Attorney investigate whether any requirements for removing top soil from the project site exists.
3. Restoration of the green space between lots 179 & 205 modified. Original area of that green space be restored.

Edwards said he had an issue with regard to the change in the lot size. With such changes, he wanted to make sure there would be no surface features of any utility in any driveways of the residences. Edwards said his concern came to light from a problem on Curtis Court North with a utility manhole in a driveway that has sunken in. The first home off of Pletcher Road (4325 Riverwalk Drive So.) has a sanitary sewer manhole in the driveway, he said. “We’ve been going thru a manhole problem on Curtis Court for four weeks and it’s coming to a head... I feel from putting those utilities in that they are put in in a proper manner and that they are inspected... I want to see these out of the driveways from now on.”

Lannon said the Building Inspector’s office should be informed to instruct developers that no surface feature related to town infrastructure should be located in the driveway of any home.

**Bax MOVED to accept the recommendation of the Town Planning Board for approval of the modification to the existing approved preliminary plat for Riverwalk with the contingencies stated above and pending the correction of the elevation of the sanitary sewer manhole on the property located at 4325 Riverwalk Drive So., Seconded by Pacioni and carried 5-0.**

**Johnson MOVED that effective immediately, including the Preliminary Plat revisions (Riverwalk) just approved, no surface features relating to town infrastructure are to be located within a driveway of any new home. Seconded by Bax and carried 5-0.**

**Johnson MOVED, Seconded by Pacioni to notify the Zoning Board, Planning Board and to direct the Building Inspector’s office that effective immediately, no building permit or Certificate of Occupancy are to be issued on any property that has a surface feature relating to a town utility in any driveway. Carried 5-0.**

6). **NYPA Re-Licensing Update:** Newlin said they are working with the Greenway Commission as to what the boundaries will be within the Greenway. There are some people who think the Greenway should have a boundary that is very narrow focused on the Niagara River and others who would prefer to see a broader boundary. Newlin indicated that from the Town's perspective he wants to see the entire town included within that Greenway boundary so that this and future town boards onwards will have maximum flexibility to spend those Greenway dollars as they best see fit. "I think it would be a shame if we accepted a very narrow boundary there. I know the other members – whether it is the City of Niagara Falls or the school districts feel the same way."

Secondly, Newlin said the County of Niagara has changed their position with respect to participation in a county-wide MDA. With respect to that, Newlin said the Town of Lewiston will continue to work towards coming up with its own power entity. An executive session will follow with regard to personnel. We may be hiring outside counsel with regards to re-licensing issues. We may be moving forward with this town's own entity as well as working closely with the school district. We will do everything we can to make sure we can cooperate with the school's allocation of cheap power. It will benefit the town and the school district, as well.

Johnson suggested that the Supervisor send a letter to County Legislators John Ceretto and Clyde Burmaster requesting them to either attend the next meeting of the Town Board or correspond back to the Board as to why the County's position was reversed. **This was in a form of a Motion, Seconded by Pacioni and carried 5-0.**

7). **Street Lighting:** Edwards referred to a request from the homeowners of Saddlewood Subdivision for additional street lighting. This issue was first presented in Feb/2005. It was forwarded to the Lighting Committee. Ken Kenney, Chairman believes that this issue should be the responsibility of the developer.

Edwards asked if Eng. Lannon could look at the original plat filed by the developer for lighting. Lannon said he would but to his experience, regardless if there is or whether there isn't lighting shown, it requires a Town Board resolution to put in street lights. When a developer is laying out his infrastructure, we ask that they consider the ultimate location of street lights when they are doing their design. That avoids extra long runs of conduit that National Grid would charge the town for. In the final analysis, it's the Town's street light. Lannon said he would coordinate with National Grid to go out to view the site. National Grid will submit a proposal as to the cost of installation and annual charges which he would submit for the Town Board's consideration.

Also, Johnson asked the Engineer to inspect the area near the corner of Annover and Upper Mountain roads for additional lighting where several break-ins have occurred. He would provide the exact location for Mr. Lannon.

8). **Hydraulic Model:** Bob Nablo and Eng. Lannon provided an update with regard to establishing a computer model of the town's water infrastructure. The Town Board received a request from Mayor Soluri regarding a joint effort with the Village of Lewiston. Nablo said that is a whole different water system. That would require a separate independent study. Lannon concurred. There is no necessary correlation between the two, he said.

Lannon said the hydraulic model of the town's water distribution system will provide a computer model of the town's existing infrastructure. As operators and engineers, Lannon said they would develop the model giving the alignment of lines and types of pipes in existence today. We would perform some engineering formulas to anticipate type of flows we expect to come out of there. We would take measured field data and calibrate the model such that they are within  $\pm 5\%$  of what is theoretical and what is actually ??? in the fields. Once you have that model you can use it as a tool for predicting pressure flows.

Along Ridge Road, Lannon said there are several pressure reducing valves that are below grade. It would cost tens of thousands of dollars to rehabilitate and repair these. Since their installation many, many years ago the dynamics within the water system have changed. The immediate benefit of the model would be to ascertain the conditions of the current system and whether or not you need to replace any of those

valves or not. Determine whether or not they can be taken out of service and replaced with a straight pipe. You only want to rehabilitate those that are actually necessary, Lannon said. The fewer you have, the less there are to maintain. A computer model will allow you to run a whole bunch of “what if” scenarios and use it as a strategic plan for future expenditures in terms of where infrastructure monies are needed and where they may not be needed.

When asked, Lannon said the model can be amended from time to time to account for new infrastructure. It can be used as an aid for maintenance and capital planning. It is a valuable tool. Lannon estimated \$35,000 to \$40,000 to develop the model.

**Johnson MOVED to allocate funds in an amount not exceeding \$40,000 from the Capital Project Infrastructure Account to authorize CRA Engineers to set up a Hydraulic Model of the Town of Lewiston Water Distribution System. Seconded by Pacioni and carried 5-0.**

9). **Town Hall Parking Lot Expansion:** Lannon provided the Board with an updated concept plan for expansion of the parking lot. The plan expands the number of parking spaces from the existing 75 to a total of 148, while providing for additional parking for the disabled. The plan expands the parking lot 85-ft. south towards Ridge Road. It would provide for 17-ft. wide driving lanes with diagonal parking to maximize the number of spaces within a given area. He proposes that the existing sign be moved further to the south but still within the town right-of-way. Lannon estimated a cost of \$120,000 for the project which includes engineering fees (15,000); contractual fees (\$103,000) and contingency.

A question arose as to additional lighting. Lannon said the proposal in front of the Board does not include lighting. He would submit a revised proposal to include lighting.

10). **Cyber Security Notification:** This is something new and evolving, Boniello said, with respect to unauthorized access to an individual’s private information stored in electronic format. Boniello said there is a Cyber Security Conference that will take place June 14-15 at the Empire State Plaza in Albany. He recommended that someone from the town attend. Supervisor Newlin said the Deputy Supervisor is in Albany on business. He would try and contact him regarding this symposium.

11). **WPCC:** Bax reported that two WPCC vehicles were vandalized; one had a broken back window, one a broken windshield. The repairs to the vehicles totaled \$258 for the windshield and \$1,409.86 for the back window. The town has a \$1,000 deductible and the cost for each vehicle would be treated separately. The town’s insurance carrier recommended that the town pay the repair costs and not submit a claim. **Bax MOVED to pay for the repairs of the two vehicles from account SS1-1910-0401. Seconded by Johnson and carried 5-0.**

12). **Planning/Zoning School:** Edwards referred to a request from Robert Linn to attend the Association of Towns Planning & Zoning School, July 27 at SUNY Geneseo. The cost will be \$40.00 for registration plus mileage expenses. **Edwards MOVED for approval. Seconded by Johnson and carried 5-0.**

Edwards referred to a request from Wayne Rivers to attend the Association of Towns Planning & Zoning School, July 13 at the Franklin D. Roosevelt Library at Hyde Park. The cost will be \$40.00 for registration plus mileage expenses. **Edwards MOVED for approval. Seconded by Bax and carried 5-0.**

13). **Transfer of Funds/Highway:** Per the advice of the Auditor, equipment purchased for the Town has to be paid from an equipment line, not contractual. This is due to the new GASB accounting rules since equipment has to be depreciated on the books and contractual items do not. In order to have the funds available in the equipment budget transfers are requested

**Edwards MOVED for approval of the transfer of \$5,500.00 from BD 5142-0400 to BD 5130-0200. Seconded by Johnson and carried 5-0.**

**Edwards MOVED for approval of the transfer of \$4,641.00 from SD 8540-0400 to SD 8540-0200. Seconded by Johnson and carried 5-0.**

14). **Summer Hires/Recreation:** Pacioni referred to a request to approve the following applicants for positions as Recreation Counselors for the summer of 2006:

Shannon Holforth, \$6.75 p/h; Frank Faso, \$6.75 p/h; Carly Spatar, \$6.75; Krissandra Schultz, \$6.75 p/h; Shane Landers, \$6.75 p/h; Meredith Dziewit; \$6.75 p/h; Ashley Mason, \$7.00 p/h; Jodie Jueckstock, \$7.00 p/h; Jacqueline Butera, \$7.00 p/h; Mary Taibi, \$7.00 p/h; Jaimie Quarantillo, \$7.00 p/h; Michael Maseo, \$7.00 p/h; Joshua Lewis, \$7.00 p/h; John Burnett, \$7.25 p/h; Anthony Morreale, \$7.25 p/h; Derek Tracey, \$7.25 p/h; Theresa Mauro, \$7.25 p/h; Brendan McDermott, \$7.50 p/h; Kevin Rhoney, \$7.50 p/h; and Ryan Hogan, \$7.50 p/h.

Parks Department: Anthony Taibi, \$8.00 p/h and Anthony Gandy, \$8.00 p/h.

Parks Laborers (Until 6/23/06): Derek Tracey, \$8.00 p/h, Anthony Morreale, \$8.00 p/h and Michael Maseo, \$8.00 p/h. All three works will have the option of returning to Recreation on June 26, 2006.

**Pacioni MOVED for approval of the applicants, as read. Seconded by Bax and carried 5-0.**

Executive Session: Newlin entertained a motion to enter into executive session for the purposes of discussing personnel; contractual issues; and pending litigation. **Edwards MOVED for approval, Seconded by Johnson and carried 5-0.** Time 8:50 p.m.

Present: Newlin; Bax; Edwards; Johnson; Pacioni; Leone; Boniello; Dashineau

Discussion re: Parks/Personnel: Town Mowing Contract; pending litigation; and hiring outside counsel on Power Authority matters.

**Motion by Bax, Seconded by Pacioni to exit the executive session and re-convene regular meeting. Motion carried 5-0.** Time: 9:35 p.m.

**Supervisor Newlin MOVED, Seconded by Councilman Pacioni to appoint Hodgson Russ as the Town's Lead Counsel for re-licensing matters and to work with Attorney John Dax (Cohen & Dax) as the Board sees fit as it works towards a resolution of distributing cheap power to its residents. Attorney fees not to exceed \$250 per hour. Motion carried 5-0.**

**Pacioni MOVED to adjourn. Seconded by Johnson and carried 5-0.** Time: 9:40 p.m.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk