

TOWN BOARD MEETING August 27, 2007 7:00 p.m.

Present: Supervisor Newlin, Council Members Bax, Edwards, Johnson & Palmer; Deputy Town Atty. Boniello; Eng. Lannon; Adm/Op. Lockhart; Finance Officer DiRamio and Town Clerk Brandon. 65 residents and 2 press reps.

Excused: Deputy Tn. Sup. Elgin & Tn. Atty. Leone.

The Supervisor opened the meeting 7:05 p.m. The Pledge of Allegiance was recited and a moment of silent reflection followed.

RESIDENTS:

Kathleen Skoog of 531 Mt. View Drive. Good evening, my name is Kathleen Skoog and I live in Lewiston, N.Y. My husband and I have lived in our home for 20 years. Unfortunately, just 2 months ago, I learned that we lived within minutes of one of NYS's largest garbage dumps. I brought these poster documents that highlights the facts in the hope that the Town Board and the residents of Lewiston will see how one small dump, became a mountain and how this mountain can negatively impact our lives. The site was first developed in 1983 with a garbage intake volume of 19,000 tons. This may seem like a lot, but when compared to the mountain that exists today it now seems miniscule. In 1995, the first host agreement with the town was signed. The significance of that agreement was the fact that the town at that time understood the negative consequences of expansion. In fact, they agreed to decrease the amount of garbage by 1% year over year and the landfill was expected to close in 2012.

As we all know that did not happen. 4 years later in 1999, the host agreement was amended again. The height of the landfill was increased to 155 ft. and the width was increased to 122 acres which is 3 times the original 1995 host agreement. The annual garbage intake was increased to 608,000 tons and the project closure changed to 2040. Exactly 4 years later (2003) the agreement was further modified to increase the annual tonnage to 808,000 tons per year. It seems to me that these increases were all done quietly and here we are 4 years later and with another request to amend the agreement. This increase is projected to increase the annual intake of garbage to over 1 million tons.

I am here tonight to ask the Town Board to act responsibly, to take a leadership position and say NO to garbage increases today and in the future. As you may notice, I am wearing a white ribbon and this signifies our commitment to keep Lewiston, beautiful, safe and clean. I have brought extra ribbons in the hope that Mr. Newlin and the Town Board members will join us in keeping Lewiston beautiful, safe and clean now and in the future. I want to thank our Town Sup. Fred Newlin.

The Supervisor referred to the blue line on the graph which tracks what the waste would be under the original 1995 agreement, the cinnamon colored line shows the 1999 agreement and then the subsequent numbers.

Marianne Steiner of 636 Mt. View Drive. I would like to address the proposed expansion from a traffic perspective. Should you as the elected caretakers of this small community approve this request you will be responsible for an increased number of tractor trailers on our roads. Increased noise from air pollution in our backyards, compromise roads and health safety and costly wear and tear on our streets. The proposed increase will result in nearly 30 trucks per hour and that is one truck load of waste material traveling through our little community every 2 minutes. This is based on a 10 hour workday with a forecast of nearly 300 trucks per day. Our community's children share the roads with these tractor trailers all day long. The trucks are on the road from 7 in the morning to approximately 6 in the evening. There are regular morning and afternoon school buses, late buses carrying boys and girls to special events and sporting activities. Let us not forget the moms and dads driving their kids to and from school during the day and into the evening. I ask you are you comfortable knowing that your wife, husband, children or grandchildren are traveling along side these huge trucks that are filled with waste materials. Would you

be comfortable letting your child ride his or her bike down the street while a stream of tractor trailers barrels by at 45, 50, 55 mph. Yes, these are speed risks and as such truck traffic is allowed. But, as our town leaders you have the choice to determine the outcome on truck traffic is appropriate in a small community such as this. Lewiston is not an industrial waste site and it is up to all of us and especially our town leaders to make sure it doesn't become one. Lewiston is a beautiful and unique and desirable place to live and raise a family that we strive to preserve. A former president said that Lewiston is the most historic square mile in America. I ask each and every one of the Board Members tonight do you want to be responsible for damaging that history.

Bill Waters of 554 Mt. View Drive. Members of the Board, fellow citizens, I am a resident of the Town of Lewiston for more than 32 years. I have a question for Modern. According to Town Hall records when the original agreement was amended in 1995 and I quote "Modern agrees it would neither propose nor seek terms that would contemplate land filling operations at a volume greater than 231,191 tons of waste per year." This was quote from the CEO of Modern to the Board. Now, Modern is asking for over 1 million tons a year. According to the *Tonawanda News* published 8/8/07 the CEO of Modern, Gary Smith stated "for them to be surprised by landfills expansion they would have had to have their heads in a hole." My question for Modern is what are we to you? A pack of naïve villagers to be taken advantage of whenever you see fit. This community has reached a critical fork in the road. We have the choice now to stop expansion for all the reasons discussed tonight. We live in a beautiful community. This is endangered of becoming an industrial site overrun with trucks and all the problems that they will bring. Lewiston, Porter and Youngstown are unique communities because we are the gateway to the historic lower river region of NYS. If you the Board approve the request to increase the number of trucks it will result in one truck every 2 minutes through the streets of our community. We are not talking about small garbage trucks...we are talking about tractor trailers. As it stands the current landfill is approximately 65 feet tall. The current permit allows it to be built to 155 feet which is taller than the Statue of Liberty which is 151 feet. The Statue of Liberty represents the Gateway to America and I don't know about you but I don't want our community to be known in the future as the "Gateway to Garbage". Do you?

Joan Gipp of 1468 Ridge Road. We all see now the damage that has been done by the previous board to our town. I feel confident that this board...I follow you in the paper all the time and I don't think you are going to make it any worse for us. However, the damage has been done and I would ask that those of us who live on the truck routes have our assessments lowered to reflect our loss of property value. I would ask all and though this board has the power to designate the truck routes that you expand those truck routes to include any road that leads to Modern including River Road, Porter Center, Dickersonville, Upper Mt. and spread out the impact so that it is not just felt by a few. I would like to remind you that you took an oath to protect the health and welfare of the people of Lewiston not to protect the wealth of Modern. Thank you.

Lyn Szanyi of 559 Mt. View Drive. I want to employ everyone here to take a stance and I agree with everyone. My issue is clearly one of safety for my children and those as well. I drive my children to school every day and to tennis and meetings and all over. I am on the road and I am repeatedly intimidated by the trucks. I was angry recently that I went to the State Police and I had just had it. After numerous calls to 911, to phone calls that I have made to the State Police, I finally got off of the road. I was driving with my children when an enormous Modern truck came up behind me and I was intimidated and scared. He was inches from my bumper and I wanted to get out of his way. This is not the first time and it has been too many times. It was brought up in June that how safe their drivers are. They are not safe. I told this to the trooper and asked if they could pull these trucks over. Clearly, I don't see it happening. I don't see any trucks pulled over. I will call every single time that that happens to me and it has been too many times. In June there was an accident and Modern said how safe they are and there were no accidents. In November 2002 there was a truck involved in an accident right in front of Mt. St. Mary's Hospital where I drive by 3-4 times a day. Clearly there have been accidents and it was horrible. I

don't want this to happen and if you increase the trucks to all of the trucks that are already out there but not only my children and your children, but families and friends. Please, please from a safety standpoint alone this cannot happen. Increasing trucks...they are very intimidating and I don't see anything happening. Please keep all of our families safe.

John Daly of 932 Seneca Street and a resident of the Village. I live about a 100 feet east of Lewiston hill and I am lucky enough to experience just about every single truck roaring that hill. We have a posted speed limit of 45 on that but I would say the average truck does about 55. I am looking forward to the Village of Lewiston even before I was aware of this expansion to complain about the existing problems that we have. My number one complaint is that the noise. The noise of these trucks coming down the hill applying their engine brakes or "J" brakes....the noise is unbelievable. The noise starts not at 9 o'clock in the morning. It starts at 4:30 or 5 o'clock in the morning. It is not a noise that I like to wake up to. So we have an existing problem and we want to make it worse. Not only do we have noise but the smell of some of these trucks coming down the hill is unbelievable. I was playing catch in the yard with my daughter and she asked what that was. I said it was the truck that just came down the hill. That is just at the current rate so let's bring a few more down to add to that. I noticed this increase and I was naïve to what was going on with all of these little expansions that got slide underneath the carpet and I didn't realize that all these gifts to Modern had been given out. I called DEC before I went before the Village to get the numbers and some of the numbers have been given tonight but I was shocked to find out that between 1994 and 2006 the number more than doubled. Obviously as the number doubles we get double the number of trucks coming down the hill. Double the noise, double the smell, double everything else. It has doubled in 12 years and is it going to double again in another 12 years. Let's hope not. It is my hope that the elected officials that are in front of me here will not allow this increase to take place. I see no benefit to the community whatsoever by allowing an increase. I look for your support. Thank you.

Vince DiMarco of 474 Mt. View Drive. I live on the corner of Mt. View Drive and Lewiston Road so I get to see a lot of these trucks coming by. It is pretty simple. More trucks are worse than less trucks. We have already got problems with the trucks that we have. In my opinion this is the simplest decision this Board is ever going to make to say we don't want more trucks. As far as Modern is concerned they are making a lot of money already. They are just going to make a lot of money for longer and no matter how much this town gets out of this deal raise the taxes if you have to. Do what you have to do. But don't do this. I moved from the Town of Niagara to come to Lewiston to pay more taxes. I'll pay more still if that is what it takes to have a better quality of life. That is what Lewiston is all about, the quality of life. We don't want to be a big city. We don't want to be Niagara Falls. We want to be Lewiston and the people live here for a reason. The reason isn't smelling dump trucks and everything else. Let Modern take the time that it needs to unload the trucks over a longer period of time. As far as every politician talks about regionalismregionalism doesn't mean a lot to me because what it means in this sense is that we get Toronto's garbage in Lewiston. If that is regionalism we don't need it. Thank you.

Newlin said we will finish up with the two other speakers who are going to address another issue and then we will proceed with the rest of the agenda.

Michael Taylor of 5926 Garlow Road. Dogs are running wild in my neighborhood. I talked with Councilman Palmer about this. I have lived in the Town of Lewiston for 50 years. My father for over 50 years. The dogs are a menace at 1654 Wayside Drive and the owner is Patty McGuire. She has 2 pit bulls and a boxer that are a menace to the neighbors. Numerous court appearance tickets for dogs at large. How many dogs does she own? I have been told at least 6 or 7. How many dogs does she have licensed or rabies papers for? She has one that I know of and that was after the dogs attacked me. I complained that they had no licenses or rabies papers and I called the Health Dept. The dog has to break the skin to be considered a dog bite. How many times has the dog have to attack before it something is done? The brown

boxer attacked me on July 30th and the pit bull attacked my father on August 17th. The boxer and 2 pit bulls again attacked my father on his 75th birthday on August 25th. The dogs are a menace to the neighborhood. The owner stated that she had gotten rid of the 2 pit bulls this Sunday but I don't believe her. What is to keep her from bringing them back home? If you do not have a license or rabies certificate they need to be euthanized. The new owner needs to be interviewed to make sure that they have licenses and certificates for these dogs. They are very dangerous to the neighborhood. It is only a matter of time before the boxer is running loose again. Are you going to wait until some innocent kid rides his bike past that house and is attacked by boxer? On August 26th my father went for his daily walk and the owner and her children while driving by barking at my father. I call it harassment. I am asking for help. I would like the Town of Lewiston to set a limit on how many dogs in a residential neighborhood you can have per house. The Village has a limit of 3 dogs. I have been told the Town of Lewiston has no limit. I have been told by the neighbors that 7 dogs are there. The fence there is trash and I have pictures of it. I have documentation of when the attacks took place and I had a near miss with the boxer myself. Thank you.

Newlin: Please leave your documentation and phone number with the clerk and we will get this item into the agenda.

William Briggs of 502 6th Street, Niagara Falls. I formerly represented the Town of Lewiston as the electrical inspector with the NY Board of Fire Underwriters. I am no longer employed by them. I have started a new inspection company and I would like to introduce myself. I would like to represent the Town of Lewiston with better rates and service as a locally owned company. I will leave information with you.

Newlin: Thank you all for coming tonight. This is small town democracy at it's best and this is a great forum for people like yourself to make yourself heard. My opposition to this proposed expansion as been a matter of record now for several months and at this point no councilman has brought up this matter on the agenda tonight nor have they in the past. We are going to get to agenda approval later unless a change is made I don't expect it will be but unless the change is made you can see this matter will not be coming up for discussion or vote tonight. At that time, we will pause for a time so that if some of you would like to leave you could do so.

I know that we have a lot of residents up on top of the Escarpment and we are going ahead tonight and under my agenda (legal) we were going to put in a new road there. We sent engineers there early in the spring to test the water lines first to make sure you do not put a new road and then dig it up because the water line needs replacement. It has turned out that that water line is probably the oldest that we have found in the town so far going back maybe 100 years so what was a \$700,000 paving project has now grown into a 2.2M paving and water line project. We will be addressing that matter and we will go forward with the bonding. With any luck we will do some of the water line this year and it will probably take 2-3 years as we pursue the bond and get the new water line in. I think it is good planning on the Boards part and make sure we don't do some wasteful new paving only to be ripped up because you are not getting the water you are should be getting.

To put your minds at ease, I don't believe it is coming up on the agenda tonight (this Modern expansion). We do have a new Chief of Police and I have directed him and we are going to be more vigorously enforcing the truck laws. He has sent one officer to a special school with respect to truck violations. He will report back monthly and I think it will be a big help if the laws are enforced tightly. I think it will alleviate some of the problems. We are also trying to get a good opinion as to whether a "jake" breaking can be completely banned or banned in the case of an emergency. We know other communities in WNY have done it successfully and it will alleviate maybe some of the noise problem that the residents have spoken about tonight.

As I said unless there is a change to the agenda that would specifically bring up the new Modern proposal it will not be coming up tonight. We will also be putting a police car down on Creek Road Ext. that will catch some of the truck violators.

The Board took a short recess and resumed at 8:05 p.m.

Newlin: We are back in session and there is a resident who wishes to speak unless there is an objection.

Nanette Luzak of 658 Mt. View Drive. I know that Modern is very important but I am unfortunate enough to live on the border of the Village property. Across the street from me is one little bit of the Town and then the Village. Directly next to me is Village. I have neighbors that in September of 2003 starting hammering away at rocks to dig a basement which took 3 months to dig. Digging every single hour of the day. They finally dug the hole and started building it and eventually you think it is going to end. The next year it kept going and going. In October when I thought it was going to end and the permit would be up now they have a permit to put in a Japanese hot tub that has so much stone in it. Now it is almost September again. We have had lane closure continuously and with school buses starting next week and all throughout the school year we have double parking and you cannot get through. I am constantly calling our police and also the Village inquiring whether there is another permit for the 5th year. I have construction, a port-a-potty, a dumpster, stones, rock and crap across from my yard. I called Mr. Candella of the Village and he doesn't know but he thinks it getting towards the end. I want them to be at the end as I can't deal with this another year. With my son getting off of the school bus I don't need these strange people all around my house all day long. If I don't have that problem with the port-a-potty smelling up my front yard which when Modern comes to empty it, it is horrific.

Now, I have a lady who lives next door to me who is in the Village. A year ago I called the Health Dept. because she had 68 cats. There is no law in the Village that says how many cats you can have. The Dept. of Health went in and now we are down to 13 cats. Now they are going to construct in her garage (within 10' of my house) a very clean, huge pet compound. Maybe there will be 60 again and my dogs will kill themselves with anxiety. I go to the Village and say I want someone to put a law in place that only so many cats are allowed.

Newlin said that the Village does have a dog limit but we should check about a cat limit. You said that some of the area being abused across from you is in the Town, correct?

Nanette Luzak: The one swipe of 66' wide in the Town that is where the machines, quarry rock, the dumpster and the port-a-potty are.

Newlin: We will meet with building inspector when he is hired and if codes are being violated we will enforce them. I will also talk with Mayor Soluri about this issue.

AGENDA:

Palmer asked to add dog/cat issue.

Bax: Add an executive session regarding 2-3 property damage claims.

Edwards: Contract review with the attorney.

Boniello asked to add a settlement issue.

Palmer MOVED to amend the Agenda as presented. Seconded by Edwards.

Johnson: A lot of the people in this room were wondering why Modern was not here. They suggested that maybe we have a public hearing with the same people and someone from Modern. I don't know if you want to put that on the agenda or just call Modern and ask them if they want to have a public hearing about the concerns. It might be a good idea.

Newlin said let's adopt the agenda and then we will get into that issue under legal.

Agenda approved 5-0.

Brandon: Mr. Supervisor, I don't think you want a public hearing, I think you want an informational meeting.

Newlin said you need to have a legal impetus for a public hearing which I don't think we have in this case.

MINUTES:

Johnson MOVED to approve the Minutes of 7/23/07 RTBM; 8/13/07 Spec. Mtg. re K-9 Unit and 8/13/07 Work Session. Seconded by Bax and carried 5-0.

POST AUDITS:

Bax MOVED for approval of Post Audits: Home Depot \$366.02; Office Max (HSBC Business Solutions) \$938.21; Office Max Inc. \$124.59; Sam's Club \$1,474.06 and Ford Motor Credit Co. \$8,854.56. Seconded by Johnson and carried 5-0.

OLD BUSINESS:

1. Northridge Lighting:

Lannon: I met with Kim Johnson of National Grid on site on 8/24 and they will prepare info for us and we can discuss it hopefully at the 9/10 meeting. I also asked for a quote for Paddock Lane and they are working with a planner to get it on the schedule and they will let me know of the date.

2. Town Parking Violations Proposed Increases.

Newlin read the following memo from Atty. Leone. "I have reviewed the proposed increases in Town parking violation submitted by the Chief of Police in order to create uniformity between the Town and the Village. I spoke to one of our Town Justice's Clerks who indicated that typically when matters are reduced to parking tickets in the Town of Lewiston, the typical plea is to our Local Law §24A-3. I note, however, that this particular article of our Local Law indicates that any person convicted of a violation of the provisions of the Local Law, is subject to a minimum fine of \$25.00 per violation with a maximum fine of \$100.00 per violation. Therefore, if the Town desires to amend the parking violation fines, in my opinion, the same would require an amendment of the Local Law. If you desire to do so, please notify me and I will prepare a draft amendment for your review."

Newlin: If there is no objection, I will direct Mr. Leone to do that and to prepare a draft amendment for September and then we could authorize a public hearing.

Bax: Mr. Boniello, from the memo would you assume that meant reducing the minimum fine in our current law down to the \$15.00 amount.

Boniello: The minimum fine would be \$15.00 and the maximum would be \$100.00 per violation. When this was brought up a year ago, at that time the Village was doing theirs and it was our intention to have a uniform ticket. These figures here are still low but it looks like he is recommending that new violations be \$25.00 and \$100.00. We would have to amend the local law.

Newlin said that if it was just a matter of finance we could vote tonight to set the fines at any amount but Mr. Leone has advised that we would have to change the fines and the local law.

Johnson asked if this could be done with the other fees that we changing. (i.e. building fees)

Boniello: You could put in the amendment to the local law that it could be modified from time to time.

Newlin said perhaps we could submit both. We will have a draft amendment for the work session in September and if there are no additions or corrections we could then set a public hearing.

CORRESPONDENCE:

1. The Planning Board on July 19, 2007 reviewed a modification from Niagara University to allow a new Vincentian residence. The Planning Board

recommends approval of the variance in view of the fact there are no substantial changes to the site plan.

Palmer MOVED to accept the recommendation of the Planning Board to Niagara University with no substantial changes. Seconded by Johnson and carried 5-0.

2. The Planning Board on August 16, 2007 approved a request from Wallace Moll for a two-lot subdivision on Bronson Drive, SBL#102.00-1-14.1 as presented with the contingency that any future development of the property requires a new PD plan. Attached is the response from the Environmental Commission recommending a Neg Dec and a response from the N.C. Planning Bd.

Bax MOVED for a Neg Dec on SBL102.00-1-14 for Wallace Moll. Seconded by Palmer and carried 5-0.

Edwards MOVED for approval of a two lot Subdivision SBL102.00-1-14 for Wallace Moll with the contingency that any future development of the property will require a new PD plan. Seconded by Bax and carried 5-0.

NEWLIN:

Legal:

In executive session we will discuss the Niagara Power Coalition and Mr. Kluskey regarding litigation.

Water Improvement Area/Mt. View Drive.

We have a letter from Atty. Spitzer on this.

Lannon: You have the document prepared by Mr. Spitzer from Hodgson & Russ which is the first official step in the bonding process for the 1.6M project on Mt. View Drive etc. The action is to call for a public hearing on this project.

Boniello: We need a resolution first of not less than 10 days nor more than 20 days before the date of the hearing.

Newlin asked to set the public hearing for Sept. 24, 2007 at 6:45 p.m.

Johnson MOVED to hold a public hearing on September 24, 2007 at 6:45 p.m. in the matter of the increase and improvement of the Town of Lewiston Water Improvement District, Town of Lewiston pursuant to Section 202-b of the Town Law. Seconded by Edwards.

Boniello: We are going to need a resolution by the Board approving the plan and I can read it into the record if you would like me to or there is a written document that can be put into the record which will be the notice of the public hearing.

Edwards asked if Mr. Boniello could just put it into the record.

Newlin said without objection we will submit it into the record* as presented by the attorney to the clerk which is the notice of the public hearing.

Motion carried 5-0.

Bax MOVED that the Clerk be directed to publish the public notice as required by law. Seconded by Palmer and carried 5-0.

Order Calling Public Hearing To Be Held On September 24, 2007

WHEREAS, the Town Board of the Town of Lewiston (herein called "Town Board" and "Town", respectively) in the County of Niagara, New York, has pursuant to Town Law created the Town of Lewiston Water Improvements District (the "District"), and has directed CRA Infrastructure & Engineering, Inc., a subsidiary of Conestoga-Rovers & Associates, a professional engineering firm licensed in New York, to prepare a map, plan and report for the District water improvements, along Mt. View Drive, Woodland Drive and Forest Road including but not limited to, the installation of approximately 10,000 linear feet of new 8-inch PVC watermain, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "District" Improvement") and pursuant to the direction of

the Town, the Engineer has completed and filed with the Town Board such map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$1,600,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$1,600,000, offset by any federal, state, county and/or local grants received.

NOW, THEREFORE, BE IT ORDERED, that a meeting of the Town Board of the Town of Lewiston will be held at the Town Hall, 1375 Ridge Road, Lewiston, New York on September 24, 2007 at 6:45 p.m. (prevailing Time) to consider said increase and improvements of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in each newspaper designated as the official newspaper of the Town for such publications, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

DATED: August 27, 2007

TOWN BOARD OF THE
TOWN OF LEWISTON

Johnson: Where do we publish this?

Brandon: In the *Niagara Gazette* as required.

Johnson: We need to change that and I'll make a motion that we put in all 3 papers as I am getting phone calls tonight and they have been telling me right along that with our public hearings they don't get the information. It goes into the *Sentinel* and it should go into all the papers.

Boniello: The law requires that it be a county wide paper. That is the minimum requirement.

Johnson said that a number of people do not get the *Gazette* although it is a county wide paper. I think it should go in the *Sentinel* and the *Buffalo News*.

Brandon: Are you aware of the cost of putting it in those papers?

Johnson: Yes. It is more costly when the people don't know about it.

Newlin asked what the costs would be.

Brandon said it would probably be somewhere from \$750 to \$1000 to put it in all those papers.

Newlin said that perhaps at budget time we can carve some money some where else and increase the notification line. I think that the *Sentinel* is a good reasonable next step.

Johnson MOVED that the notice of the forthcoming public hearing be put in the *Sentinel*. Seconded by Bax and carried 5-0.

Lannon said that according to Mr. Spitzer it is also required to be put on the Town Sign.

Liberty Mutual Insurance Proposal:

Boniello: Liberty Mutual wanted to months ago to make certain programs available to the Town employees. They submitted a document for the Supervisor's signature and I had questions on it. I was hesitant to recommend it to the Supervisor. I contacted Mr. Johnson and gave him a revised document which is the one accepted. If the Town of Lewiston wishes to offer group savings plus programs to eligible employees, the parties execute this agreement with the authorized signature. Those programs have been made available to Lewiston employees already and they are asking for something in writing.

Newlin said we took on an additional completely voluntary at no cost to the Town, additional insurance that was provided by AFLAC. This would further increase voluntary opt in benefits for Town employees that does not cost the Town fiscally anymore and there is no cost to the taxpayer. They would say for example, I want to

get my house insurance thru Liberty Mutual and as a Town employee they would then be eligible for some discount and that would come if they so opt directly out of their paycheck. It is merely providing a benefit the employee at no cost to the Town and it does help our employees. (Mr. Palmer was away from the dais at this time and it will be discussed when he returns.)**

Power Re-Licensing Update:

The Governor has signed the agreement and the Town of Lewiston rightfully started pursuing what I termed as a tri-partite agreement. The simplest way to this would be a three way agreement between the Town, the Power Authority who produces the power and National Grid who distributes the power. We had the Governor sign off finally on the Power Authority's end of it. The Town Board has already approved the dedication of the power to the residents and the last piece is National Grid. National Grid's and the State's attorneys have concurred that they do not need to seek a special tariff arrangement so that makes the process even easier. All they are doing is submitting the rates to the Public Service Commission which is mostly a formality and this should be happening within the next 48 to 72 hours. The good news is that everything is on track for the power to be delivered to residents starting in September 1st. The megawatts will be sold into the grid by the Power Authority and then we get "x" amount of dollars for that which is hard to predict with September being a medium use month or shoulder season. That credit will then be applied as equally as possible to the 6500-6700 residential units that are within the Town and the Village. That does include Sanborn and parts of Ransomville that are within the political entity that is the Town of Lewiston. The only caveat that I wanted to give to that is that since we are dealing with a rather mostly large number of homes there is bound to be a few homes that slip off of the list through pure clerical error. Even if we have a failure rate of 2% which would be terrific if it was that low, that still leaves about 120 homes off of the savings. We certainly want to avoid that at any cost. At my end what I have been trying to do is make myself and my staff to make sure that they are on the list but even despite those efforts we will probably have few that will slip through the cracks. At the next meeting we should consider setting up some sort of account and a small administrative fee that would bill some reservoir of dollars to reimburse those residents who may have slipped through the cracks and get their deserved discounts as they should off on the first months go around.

Johnson said as mentioned earlier that they may live in Lewiston with a Niagara Falls address. I would think they would be able to pinpoint those.

Newlin: We have a grievance process set up in my office for those who should be getting it and are not. The difficulty is that has simply not been done in the State of NY for a very long time. There is no one to speak to about it how this was done and the Power Authority had never designated hydro power for residential use. This doesn't happen in Messina which would be the closest mile to us when the St. Lawrence project was approved by FERC about 3 year ago. We are really pioneers here and I think there are a lot of good benefits but I wanted to update you on our progress.

Johnson asked what this is percentage wise.

Newlin stated that this one of the things that we cannot answer yet. They tell me the average home at this point and it averages it is not the easiest of in terms to apply; the average home should be realizing a savings of about \$240 a year. That is on the lower end but lets be conservative of it until we see. I can tell you better in a year but at this point that looks like what the savings will be annually. Again a lot changes. The price of power fluctuates not only monthly but daily and I don't think anybody at National Grid is going to swear to you what a kilowatt going to be worth in April of next year. We live in a time of increasing power demands and unfortunately relative to demand increase very little production increases. The same things being affecting the energy markets, oil and gas. We will know better in a year but at least we are taking a step in the right direction.

Boniello: I understand that the electric bill is about 40% costs of the electricity, 40% transmission costs and approximately 20% taxes (state & federal). Now the portion that the residents are going to benefit on is the cost of the electricity. Transmission and taxes are not going to be affected. We have no control over that.

Johnson: So the delivery costs and taxes could go up and wash out our discount to our residents. It is out of our control. That is what happened to us when we gave everybody a tax break when we had the Modern settlement and we gave it all out to the residents.

Newlin said this would be relative to other folks and it could happen but there are going to be some more developments on that. I have will have some proposal on that in forthcoming meetings but because of contractual agreements we can not get into it at this time.

Greenway Issues:

There is an ongoing discussion between the Power Coalition which the Town plays a part in and the Greenway Commission and the Power Authority as to the rules of what the approval process is actually going to be. I expect that should be resolved by mid September if not the end of the month. So once we get those criteria, the Board members will have it and we will distribute to the community.

At the next meeting I will have in writing some proposals that I have to encourage conservation. We will not go into that in great detail later and again I will stress my concern that value and the net savings not be frittered away and we try10 to encourage good behavior on the part of consumers as much as possible. There is a clear benefit there to Town residents in that it will cost them less money if they conserve more as well as the fact that it is good for the Town because we make the most of the 6½ megawatts we have been dedicated.

Set Up Account for Greenway/Tourism Fund:

Once we do have this set of criteria and protocols and approval process set forth in and established an agreement between the Power Coalition, the Greenway Commission and the Power Authority we will be in receipt of monies at some point. Exactly when hasn't been determined yet and that is pending those other discussions. I would now like for the budget officer to comment about setting up that fund that would accept those monies. It is a fiduciary matter.

DiRamio: We can set up Account H-98 to put the designated funds in and then whatever bank you determine you want it put into.

Johnson MOVED to create H-98 to be the Greenway Plan Fund. Seconded by Bax and carried 5-0.

**Mr. Palmer, I held off discussion on a proposal from Liberty Mutual Insurance to more on insurance riders that are of no cost to the Town but they are voluntary opt ins by employees to participate in a savings program. We did this prior to your election to office with AFLAC. It would offer them discounts in auto insurance, home owners insurance and if it pleases the Board we can move on it tonight.

Johnson MOVED to allow the Supervisor to sign the agreement with Liberty Mutual Insurance to offer the employees the opportunity to opt in with no cost to the Town of Lewiston. Seconded by Edwards.

Edwards: A problem is that there maybe an employee that doesn't want to be called by the insurance company and we will not give any phone numbers. They can hold a seminar to the members on their own time.

Newlin said in speaking with the reps of Liberty Mutual and there would be a seminar here and it is voluntary show up. We are not providing them with any personal information.

Motion carried 5-0.

BAX:

The CAC and the Wind Energy Committees will be meeting in September.

Recreation Dept.:

We need to approve the low bidders for the resurfacing and repair of the tennis courts at Kiwanis Park and the repair and resurface the shuffleboard courts at Pletcher Rd. Park.

Bax MOVED to approve the bid of Courts & More in the amount of \$12,500 for the repair/resurfacing of the tennis courts at Kiwanis Park. Seconded by Edwards and carried 5-0.

Bax MOVED to approve the bid of Courts & More in the amount of \$900 for the repair/resurfacing of the shuffleboard courts at Pletcher Rd. Park. Seconded by Palmer. Carried 5-0.

Bax MOVED that funds for these two projects are to come from Acct. H-61. Seconded by Palmer and carried 5-0.

Repair of the Shelter/Colonial Village Park:

Estimated costs are between \$10,000 and \$11,000 and would be for this budget year.

Bax MOVED to go out to bid for repair of the shelter at Colonial Village Park. Seconded by Palmer and carried 5-0.

Parks Laborer Position:

Bax MOVED to hire Stephen Lands as a temporary laborer in the Park Dept. at \$8.00 per hour. Seconded by Palmer and carried 5-0.

EDWARDS:

Library Parking Lot Repairs:

The parking lot as well as the curbs and sidewalk is in dire need of repairs. I have visited the site and Sup. Reiter has put together a proposal based on good weather. To mill the lot \$5000; pavement top course 240 tons at \$50.00 per ton for \$12,000; repair/replace 4 catch basins at \$1500 apiece which is \$6000 and contingencies is \$5000 for a total cost of \$28,000. The DPW of the Village will take care of all sidewalks and curbs with repairs with respect to the damage from plows and heaving. (Newlin confirmed that with Mayor Soluri). Mr. Lannon, is roughly 25,200 square feet of parking lot is this number acceptable?

Lannon said each of these unit prices that you mentioned sound reasonable.

Edwards MOVED for approval of library parking lot repairs in the amount of \$28,000 with funds to come from the B-Fund Contingency Account. Seconded by Bax and carried 5-0.

Drainage Issue/Lower River Road:

Lannon: Prior to a meeting I had with Supt. Reiter we had solicited the input of Niagara Cnty. since it is a county road. We looked at the drain in that area along with all of Morgan Farms. The County is evaluating the road and the limited responsibility and will get back to me. We can have a further discussion about the drainage at that time.

Kline Road Cemetery:

I have no report and I am waiting for information on the deed.

Sanborn Sidewalk Renovation/Lutheran Church:

Lannon: We will have a site meeting with Armand Cerrone on Thursday confirming the 60 feet. Mr. Cerrone will be getting a NYS DOT and anticipates starting work next week.

With regard to the Multi-Modal Grant the DOT has returned one executed copy of the agreement for \$50,000 for sidewalks in Sanborn. The Town will basically construct the project and when it is finished submit the receipts to DOT for reimbursement. We have to front the money first for later reimbursement.

Edwards stated that sidewalks will connect West Street Elementary School to the Farm Museum. There is 1500 square feet of frontage and 400 square feet to the buildings.

Palmer asked if the sidewalks were maintained by the Town.

Edwards: No, there are many sidewalks in the Town that aren't maintained by the Town. We have few sidewalks that are. Lower River Road and the West Street sidewalks are. We currently do not have a sidewalk law in place and I will have something on this by the fall. We cannot maintain the sidewalks once we put them in. No municipality does. If a water main breaks the sidewalks we fix it. If we are at fault we fix it.

Newlin said we have a lot of school children there that is becoming an increasingly truck route (Saunders Settlement Road) and this helps them and parenting with the library and the museum.

Palmer said his concerns were of the busy road and also would it cost the Town money to maintain it.

Edwards MOVED to allocate \$50,000 from our Infrastructure Improvement Fund for the Sanborn sidewalks from West Street to the Lewiston/Sanborn Museum (1500 feet) west of West Street. Reimbursement by DOT upon completion. Second by Johnson and carried 5-0.

JOHNSON:

We have correspondence for the 4 Fire Companies asking for a meeting to discuss fire contracts which is contractual.

Newlin: Please get in touch with Atty. Leone to discuss this.

Upper Mt. Fire Co. Roster:

Johnson MOVED to add the following individuals to the roster of the Upper Mt. Fire Co.: Karen Torrie; Jonathan Janz; Chris Copland; Rick Sukmanowski; Eddie Brown and Frances Christman. Seconded by Bax.

Palmer asked if there was criteria for background investigation or for not allowing someone who may have had problems in the past.

Johnson said he didn't believe so. This is just an affirmative of what they have done. I will ask the Fire Bureau what their criteria is and report back.

Carried 5-0.

Building Inspector's Position:

We will meet on Wednesday starting at 5:00 p.m. to interview 4 candidates from the Civil Service list. Atty. Boniello will be there along with Mr. McSwan.

Newlin said we could have an emergency meeting of the Board but not a special meeting if more than 3 council members attend.

Edwards stated that if the Board is confident that two Board members can make the decision and come back with a recommendation that would be fine. I do not want to delay the process. By doing this it would allow the candidate 2 weeks to give their employer fair notice and then we could appoint at the Board Meeting.

Edwards MOVED to hold a Special Meeting on Tuesday, September 4, 2007 at 11:30 a.m. to discuss the hiring of a Building Inspector subject to ratification at the next Board Meeting. Seconded by Bax and carried 5-0.

The Clerk was directed to put this notice on the outside sign.

PALMER:

Dog Concerns:

I would like to discuss the situation with Mr. Taylor and I did speak with him and his father last week. I did personally visit the residence at 1654 Wayside with a large yard and a chain link fence completely circling except where driveway gate entrance. That is where there is some flimsy plastic orange mesh which any dog could get out of. There were some vicious dogs there. Mr. Taylor has a great suggestion about limiting the number of dogs in a household throughout the Town except for certain circumstances subject i.e. a kennel situation or a farm property. I like what the Village of Lewiston has done. I spoke with Mr. Boniello and I would like to look into Town law and also some of the surrounding areas. I will see if I can bring some back to the Board to change the Town law with regards the number of animals people are allowed to have in their house. There is a public safety concern, concerns about odor. It is not a pleasant environment to be living in especially for the neighbors there. I will be calling the DCO tomorrow and see if he can check the situation out further. It is obviously a public safety issue and we need to look into it right away.

Newlin: Last year along with the attorneys and the Board new harassment dog legislation was approved. We really have to make sure our DCO sees that because the situation that has been described as a dangerous dog. Sometimes it is just a matter of the law being enforced. If we can pursue reasonable limits on animals.....

Palmer: Cats as well. Everyone loves animals but I personally experience in my profession people that unfortunately have certain mental illnesses and acquire a large amount of cats. It becomes a real nuisance and real menace to the area.

Newlin said it has an affect on property values, safety, health etc.

Palmer said so we need to look into from both aspects. I imagine that the law that we draft could probably accomplish all of this.

Newlin: You would think if you could pass a law limiting the number of dogs you could do it for cats. It seems simple logic but that does not always apply in the law. Please keep us informed on this, Mr. Palmer.

Brandon: I did speak with Mr. Taylor about what is going on. This morning I had a representative from the NYS Ag & Markets and along with DCO this issue was discussed. There is a DL-41 form that the DCO can file and be signed by Mr. Taylor or his father or the DCO. The owner was to be in court last week and failed to appear. Judge Sheeran gave her 30 days to comply. Mr. Sherriff spoke with the court clerk and informed her that the situation was serious. We will serve the owner with a signed form. Ag & Markets has stated that she can be served but there has to be a 3 day turn around time before she must appear. They also informed me that the judge has the option of issuing a bench warrant for the arrest of the owner. There is no doubt that this person is in violation and was given tickets last week and will this week also. The dogs are unlicensed and we have no rabies certificates but it did go thru the courts. I can't force the courts to do more than what they did. Neither the DCO nor I have the power and it is now in hands of the judge. The individual will be back in court on Wednesday.

Newlin: The Board does it best to pass laws and sometimes it does end up in the hands of the court. We will have to trust the courts to make the right decision but we have very little influence on the judges' decisions. I will engage in a conversation regarding this.

I want to give credit to locally elected officials and their staff and as you look tonight's' meeting we dealt with litigation, negotiations with a local and national company (Modern), negotiations with National Grid, environmental issues, residential issue, animal issues, infrastructure from water to sidewalks and I want to say how much I appreciate the efforts of this Council. This is a part time job and the amount of subjects we have got to master is huge and thank you for working thru all of these.

Johnson MOVED to go into Executive Session to discuss the following items: 1) property damage claim 2) contract review/attorneys 3) settlements of legal matters and 4) litigation matter/Power Coalition. Seconded by Palmer and carried 5-0.

Time: 9:10 p.m.

Respectfully Submitted & Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session:

Present: Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Deputy Tn. Attorney Boniello* and Mr. Kluskey.

Issues Discussed:

1. Litigation/Niagara Power Coalition.
2. Settle Pending Claims.

Edwards MOVED to exit Executive Session. Seconded by Johnson and carried 5-0. Time 10:35 p.m.

Palmer MOVED for approval of the following items:

1. Pay Eileen McLachan \$462.68 per claim.
2. Settlement in the amount of \$5000 payable to Mario Puglisi with funds to come from Legal Contingency A-1420-0100.
3. Accept Walter S. Johnson Bldg. Co. as the lowest responsible bidder for the Lewiston Town Hall Renovations Project in the amount of \$137,400.
4. Award electrical contract in the amount of \$9,450 to CIR Electrical (only bidder) and plumbing contract in the amount of \$17,480 to JR Swanson Plumbing Co. (only bidder) for the Town Hall Renovation Project.

Seconded by Johnson and carried 5-0.

Palmer MOVED for adjournment at 10:45 p.m. Seconded by Bax and carried 5-0.

Minutes Transcribed by:

Carol J. Brandon

Minutes Taken by:

David Boniello*