

PRESENT: Sup. F. Newlin; Councilmen A. Bax, M. Johnson, & G. Pacioni; Town Atty. J. Leone; 3 Residents; and Dep. Clerk C. Schroeder

EXCUSED: Councilman Sean Edwards

The Supervisor opened the public hearing at 6:35 p.m. The Clerk read the public notice as follows:

**NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston, New York on the 12<sup>th</sup> day of October, 2006 beginning at 6:30 p.m. at the Town Hall, 1375 Ridge Road to consider a local law amending the Animals Law, Chapter 2 of the Town Code and in particular Article I, Dogs, §2-4, DEFINITIONS, AND §2-5, PROHIBITED ACTS:**

**§2-4, DEFINITIONS:**

**AGRICULTURE AND MARKETS LAW – The AGRICULTURE AND MARKETS LAW of the State of New York in effect as may be amended by this Article and/or State of New York.**

**CONFINED – (a) To be securely restrained and kept on the premises of the owner either within a building, kennel, electric fence, or other suitable enclosure sufficient to contain the dog; or (b) to be securely fastened on a chain, wire, or other effective tether of such length and so arranged, such that the dog cannot reach, endanger, or harass any person who is legally permitted to be on such premises or adjacent property, whether on the owner’s premises or otherwise, or on adjacent premises, or on any public street, way, or place; or (c) if the dog is being transported, that such dog is confined or otherwise so restrained that it cannot escape therefrom or endanger, reach, or harass any person.**

**DOG – Male or female, licensed or unlicensed, members of the species of canines.**

**RUN AT LARGE – To be in a public place or away from the private property of the owner without being confined.**

**HARBOR – To harbor is to provide food or shelter to any dog.**

**§2-5, PROHIBITED ACTS, Subdivision D is amended to read:**

**D. Chase, jump upon, at or towards, or otherwise harass any person in such a manner as to cause such person reasonable fear or intimidation, or to put such person in reasonable apprehension of bodily harm or injury to such person or another.**

**§2-5, PROHIBITED ACTS, shall be amended by adding Subdivision H – The establishment of the fact or facts that a dog has committed any of the prohibited acts of §2-5 or any subdivision thereof shall be presumptive evidence against the owner or harborer of such dog that such owner or harborer has failed to property confine said dog.**

Supervisor Newlin said he, and other board members, have been made aware by several residents of problems with dogs that are either threatening or menacing them, whether on their own property or otherwise. With that in mind, Newlin said they are trying to update the law to better protect the residents of the town and still be reasonable to the people who own dogs.

Attorney Leone said the revisions to this local law have been re-drafted several times through input from the Town Clerk’s office, enforcement officer, town justices and private citizens. What is before the town board is the end result of that input. The main thing is the definition of what “confined” means. The other significant part is the legal part – the evidentiary part – saying that if the dog has not been so confined that it is presumptive evidence against either the owner or harborer. Leone said he tried to accommodate as many people as he could with this law. Time will tell whether or not it will be sufficient or too restrictive, he said.

The Supervisor asked for public comment with regard to adoption of this local law.

Deborah Lehman, 470 Ridge Street, Village of Lewiston asked if the proposed law would apply to residents living in the Village. Leone said it is a town-wide law but the Village is entitled to enact a law of its own. If they have not, then this law would apply.

Mrs. Lehman then asked about a dog that is left outside all day and night with no shelter, food or water. Is there a violation?

This particular amendment deals with aggressive behavior -- confining a dog, Leone replied. What you're talking about is more of a cruelty to an animal situation, which is a violation of the Agriculture & Markets Law of the State. That violation is potentially criminal depending on the severity of the situation. The existing law already has provisions to address that.

As no other member of the public wished to speak, the Supervisor entertained a motion to close the public hearing.

**Johnson MOVED to close the Public Hearing. Seconded by Pacioni and carried 4-0. Time: 6:50 p.m.**

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk

OCTOBER 12, 2006

Worksession

7:00 PM

PRESENT: Sup. F. Newlin; Councilmen A. Bax, M. Johnson, & G. Pacioni; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. Lannon; WPCC Adm/Op T. Lockhart; Deputy Sup. E. Elgin; Bldg. Insp. R. Skurski; 7 Residents; 2 Press and Dep. Clerk C. Schroeder

EXCUSED: Councilman Sean Edwards

The Supervisor called the worksession to order at 7:15 p.m. He noted the absence of Councilman Edwards who had a prior work commitment.

Johnson asked to add the following to the agenda: Joint Board Meeting; Halloween Hours; and Town Hall Sign. Bax asked to add two items on behalf of the WPCC: Cooperative Bid for Plant Chemicals and Vacuum Truck Grant.

**Johnson MOVED to approve the agenda, as amended. Seconded by Bax and carried 4-0.**

1). **L.L. #2 - 2006**: Newlin reiterated his comments made at the public hearing regarding menacing dogs throughout the town. He thought it best to amend the existing dog law to better protect the residents. He thanked the Board for its support and Atty. Leone in drafting the proposed law. As stated at the hearing, Leone said the local law before the Board is in its fourth draft. He tried to incorporate as many comments from as many people as he could. What you have in front of you is the redacted version, several times. Hopefully, it gives the Dog Control Officer enough discretion and weight to carry out his job. As for the courts, it creates a legal presumption that if the dog is not confined properly, that the owners are presumed to have known that. I hope that that would give the court some greater latitude when a case is tried, he said.

Johnson: We can enact this law and if down the pike it's caused any problems for the courts or anywhere we can always amend it, am I correct?

Leone: Absolutely.

The clerk was asked to read the final amendment for the record:

**A local law amending the Animals Law, Chapter 2 of the Town Code and in particular Article I, Dogs, §2-4, DEFINITIONS, AND §2-5, PROHIBITED ACTS:**

**§2-4, DEFINITIONS:**

***AGRICULTURE AND MARKETS LAW* – The AGRICULTURE AND MARKETS LAW of the State of New York in effect as may be amended by this Article and/or State of New York.**

***CONFINED* – (a) To be securely restrained and kept on the premises of the owner either within a building, kennel, electric fence, or other suitable enclosure sufficient to contain the dog; or (b) to be securely fastened on a chain, wire, or other effective tether of such length and so arranged, such that the dog cannot reach, endanger, or harass any person who is legally permitted to be on such premises or adjacent property, whether on the owner's premises or otherwise, or on adjacent premises, or on any public street, way, or place; or (c) if the dog is being transported, that such dog is confined or otherwise so restrained that it cannot escape therefrom or endanger, reach, or harass any person.**

***DOG* – Male or female, licensed or unlicensed, members of the species of canines.**

***RUN AT LARGE* – To be in a public place or away from the private property of the owner without being confined.**

***HARBOR* – To harbor is to provide food or shelter to any dog.**

**PROHIBITED ACTS: §2-5, Subdivision D is amended to read:**

**D. Chase, jump upon, at or towards, or otherwise harass any person in such a manner as to cause such person reasonable fear or intimidation, or to put such person in reasonable apprehension of bodily harm or injury to such person or another.**

**§2-5, shall be amended by adding Subdivision H – The establishment of the fact or facts that a dog has committed any of the prohibited acts of §2-5 or any subdivision thereof shall be presumptive evidence against the owner or harborer of such dog that such owner or harborer has failed to properly confine said dog.**

**Newlin MOVED for adoption of L.L. #2, 2006 – Amendment to Ch. 2, Animals, Article I, Dogs. Seconded by Pacioni and carried 4-0.**

2). **Approval of Abstract:** For the record, Johnson noted that Councilman Edwards reviewed the Abstract of Claims. In his absence, **Johnson MOVED to approve the Abstract of Claims, Nos. 2932 – 3248 and recommended payment in the amount of \$360,121.51 plus a post-audit of \$84,412.56. Seconded by Bax and carried 4-0.**

3). **Supervisor's Budget:** On 9/30/06, Newlin said he presented his proposed budget for 2007. The Town Board has until 11/20 to ratify a final budget. The 2007 Tentative Budget has expenditures totaling \$12,328,000, up from the 2006 Budget of \$11,949,534. Newlin said he tried to keep the 2007 Budget below the rate of inflation. The overall change from 2006 is \$378,000 or a 3.1% growth. Some key points of his proposed budget include no town tax; a zero water rate increase; and a slight sewer rate increase from \$2.50 to \$2.65 per thousand gallons (to offset debt service payments). Newlin said he did not budget any monies from the Power Authority agreement into the 2007 Budget. He anticipates \$1.3 million from NYPA payments in September 2007. That will be gravy on to this budget, he said. It will help pay for some infrastructure improvements. Newlin said the Board will set up budget sessions at the regular board meeting.

4). **NPC Update:** Newlin said at the last two Economic Development Committee meetings it was stated that Niagara County is considering pulling out of the Niagara Power Coalition in some shape or fashion. The Legislature was reminded that if they pull out, they will have a hard time with Greenway payments that will be coming for the next 50 years. From what he gathered at the last meeting, Newlin said the County will be remaining within the Power Coalition with respect to Greenway funding but that the Economic Development Committee has indicated they would like to go on their own to pursue the best use of power. That is only a recommendation from that committee. It is still to be voted on by the entire Legislature. The County has been worried as to the progress of the Power Coalition when it comes to allocating that power. It is an understandable fear. It is one that I've had and I know other board members have. That is why the Town of Lewiston has always pursued a two-track policy. We will work in good faith and as cooperatively as we can with our neighbors in Niagara Co. who are in the Coalition, but we have been working with Niagara Mohawk and the Power Authority on the side to do the best we can for our residents.

Secondly, the Power Coalition has decided to send out RFPs for attorneys to better represent their interests on how to best use low-cost electricity.

Finally, the By-laws are proposed to be changed to reflect permanently the agreement that the Power Authority came to internally last year that the Greenway Commission monies shall be split at the same percentage levels that the Host-Community monies shall be split. We don't have the language on that yet. I'll circulate that within the next two weeks. We can vote on it formally at the next board meeting.

5). **Sanborn Library Carpeting:** Pacioni said he is in receipt of four (4) proposals to replace the carpeting at the Sanborn Library.

**Pacioni MOVED to accept the proposals and to direct the Town Attorney to review the proposals as part of the bid process. Seconded by Johnson and carried 4-0.** The Board will formally award a contract at the next meeting.

6). **Sewer Line at 523 Mt. View Drive:** Bax said he's been advised by Tim Lockhart that since the sewer line goes under the street, we have to have a designation as to whether the rights of the resident extend to the street or to the main. We came to a

consensus that it applies to the street. Bax said there has to be a joint effort with the homeowner to resolve this. He'll update the Board at future meetings.

7). **Broadview/Telephone Proposal:** Johnson said the current contract with Broadview Networks will be expiring. They are now offering a savings of \$262.00/month for a one-year renewal. Johnson asked that this matter be tabled until the regular meeting for further review.

8). **Planning Board/Resignation:** Bax referred to a letter from Ralph Guerrucci of his intent to resign from the Town of Lewiston Planning Board. **Bax MOVED to accept the resignation with regret. Seconded by Johnson and carried 4-0.**

Newlin said he would review the applications on file for Mr. Guerrucci's replacement.

9). **Speed Limit/Children at Play:** Johnson referred to a request from residents of Williams Road for a reduction in the speed limit to 40 mph and that a children-at-play sign be posted Williams Road. **Johnson MOVED to accept the request to reduce the speed on Williams Road to 40 mph subject to review of the highway supt., Chief Winkley and the town attorney as to the legality of it. Seconded by Pacioni and carried 4-0.**

10). **Saddlewood Subdivision Lighting Request:** Eng. Lannon noted that the Town Board on 9/11/06 approved the additional street lighting at 823 Paddock Lane pending review of the Lighting Advisory Board. The Lighting Board reviewed the proposed street lighting and cost proposal from National Grid. The Lighting Board in a memo dated 9/28/06 does not support the request as they believe this will set precedence.

Johnson said he has heard from several residents residing in this area. They will be present at the regular meeting to address this. Johnson asked that any further action be tabled until then.

11). **Drainage: 560 Fairway Drive:** Lannon referred to a memo dated 9/25/06 from Eng. Britton in response to a request for Town assistance by the homeowner at 560 Fairway Drive (Bill & Joan Bates) to extend the existing swale easterly to the storm system located on Military Road. Based upon a visual inspection of the property, it is the Engineer's recommendation to consider granting the homeowner's request to allow the Highway Supt. to work with the property owner at 560 Fairway Drive, and adjoining property owners, to improve drainage conditions with the condition that a) written permission from the Hospital is obtained; and b) topographic elevation shots are taken to determine slope and verify that there is adequate depth and grade to connect to the Town's drainage system located on Military Road.

Newlin suggested that Councilman Edwards meet with Supt. Reiter in regards to this.

12). **Maries Subdivision:** Newlin referred to a request for one-lot on the west side of Lower River Road, SBL# 73.18-1-36. He recommended that this be tabled as there is pending litigation on the matter.

13). **Joint Board Meeting:** Johnson recommended scheduling a Joint Town/Village Police Consolidation Meeting on Monday, October 30 at 6:00 p.m., followed by a joint meeting at 7:30 p.m. with officials of the Towns of Lewiston & Porter, and Villages of Lewiston & Youngstown regarding sewer treatment capacity at the WPCC. Both meetings will be held at Lewiston Senior Center. **Johnson MOVED for approval, Seconded by Pacioni and carried 4-0.**

14). **Halloween:** Johnson referred to a request from the Clerk's office designating official "Trick or Treat" hours from 4 to 8 p.m., October 31, 2006 in the Town of Lewiston. **Johnson MOVED for approval, Seconded by Pacioni and carried 4-0.**

15). **Town Hall Sign:** Johnson recommended that Councilman Edwards look into the cost of a LCD Screen and to report back at the next meeting.

16). **WPCC:**

a) Cooperative Bid: Lockhart asked for permission to participate in a cooperative chemical bid for 2006 for the purchase of Sodium Hypochlorite and Ferric Chloride. The bidding process will be handled by the Niagara Falls Water Board. **Bax Moved for approval. Seconded by Johnson and carried 4-0.**

b) Vacuum Truck Grant: Lockhart noted that the first application for the vacuum truck grant was approved but monies were never released by the State. The Town's grant writer has located another source of funding and additional paperwork is required. The municipalities of the Towns of Lewiston & Porter and the Villages of Lewiston & Youngstown would share use and maintenance of the vacuum truck.

**Bax Moved for approval to proceed with the grant application and to authorize the Town Supervisor to execute said agreement on behalf of the Town of Lewiston. Seconded by Johnson and carried 4-0.**

The following announcements were made:

The first annual Winetique Festival will be held 10/15 in Sanborn.

A Free Business Workshop will be held on 10/18 at the Village Municipal Center from 9 – 10:30 a.m. The workshop will be conducted by the Niagara County Economic Development Center.

For town personnel needing to complete the NIMS Training Course, Johnson said it may be done on-line or in class conducted by Les Myers. Call Mike Johnson for scheduling.

\* \* \* \* \*

Eng. Lannon said he had one item for the Board for consideration. They are working with the Highway Supt. on construction of the Town Hall parking lot. Lannon said he is looking to bid by invitation for installation of the parking lot lights. He estimates \$15,000 - \$18,000 for this project. He asked for authorization to submit the bid package for public bidding for installation of the lights.

**Johnson MOVED for approval. Seconded by Bax and carried 4-0.**

With regard to the turning lane on Model City Road/Rte. 104, Lannon said he spoke with the State DOT. Should the Town elect to proceed with the construction of a right-hand turning lane on Model City Road to Rte. 104, they would need plans and specifications to be approved by the State DOT for the issuance of a highway work permit to the Town. The only potential problem, he said, is the signal pole may have to be moved and the Town would have to work with the DOT to accomplish that. In the absence of that, the turning lane could be done by Town forces subject to the issuance of a highway work permit. Lannon said he has a preliminary work sketch for the board's review. He will update the Board of any further developments.

**Johnson MOVED to adjourn the worksession. Seconded by Pacioni and carried 4-0.** Time: 8:00 p.m.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk