

**REGULAR TOWN BOARD MEETING October 24, 2005 7:00 p.m.**

Present: Sup. Newlin; Council Members Ceretto, Johnson, Kilmer & Langlois; Tn. Atty. Leone; Deputy Tn. Atty. Boniello, Eng. Lannon; Adm./Op. Lockhart; Bldg./Zoning Officer Coulter; Chief Winkley; Deputy Sup. Elgin & Town Clerk Brandon. 12 residents and 3 press reps.

The Supervisor opened the regular meeting at 7:10 p.m. The Pledge of Allegiance was recited followed by a moment of silent reflection. The Supervisor noted that Councilman White of the Town of Porter son recently died as a result of a boating accident and that he was also the brother-in-law of Tn. Eng. Robert Lannon

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

**RESIDENTS:**

Paulette Glasgow of 836 The Circle. I would like to comment on the arrangements that you have made with regard to the Assessor. I have the Real Property Law, Title 2 that is assessors and assessing training. It says that in the event that the assessor's office becomes vacant, the appointing body (the Town Board) may by resolution designate or appoint an acting assessor. Also, once this office becomes vacant, notify the State within 15 days. I don't know if this has been done. The acting assessor stays in office until you make an appointment of a permanent assessor for the remainder of said term. Nowhere in this law does it say to you appoint the retiring assessor as a consultant. You need to change that.

The Supervisor stated that it has already been changed.

Paulette Glasgow: There seems to be a discrepancy as to what you are paying Mr. Virtuoso. Did you correct that the other night? On August 22, 2005, Mr. Langlois moved to appoint Mr. Virtuoso at a prorated amount of \$1354.00 bi-weekly, which is \$677.00 per week that passed unanimously. Two weeks later, Mr. Kilmer moved to appoint Mr. Virtuoso as a part time assessor at a rate of \$35,200 annually with no benefits. Mr. Virtuoso is going to get benefits...he has been here for 19 years so he will get health benefits. On Sept. 12<sup>th</sup>, Mr. Virtuoso salary of \$35,200 was carried unanimously which broken down bi-weekly is over \$1000. Are we paying him \$667 or are we paying him \$1000? Was this discussed the other night and if it isn't you have to address the fact what you are paying him as you appointed Mr. Virtuoso as the acting assessor. It is strange to appoint the retiring assessor as the acting assessor.

Richard Demus of 730 Powell Lane. Regarding my water bill ... I don't use the minimum usage so this past billing cycle was over the minimum and I understand that the meter reading wasn't until the 15<sup>th</sup> of October. I am not the only senior in the Town and I know there are a lot of seniors that probably do not use the minimum and if the town is 15 days late, I think that there should be a reimbursement. If you are going to be billing every 2 months while the other municipality's bill every 3 months ..... I believe the Village of Lewiston bills every 3 months but they bill on actual usage. The Town of Lewiston has a minimum and I think the Town is overcharging for water. (Letter on file.)

**AGENDA:**

Kilmer: FOIL Resolution re: NYPA update. (Under Sup. Newlin's Agenda)

Johnson: Add a letter of recommendation for a retiree.

**Johnson MOVED for approval of the amended Agenda. Seconded by Langlois and carried 5-0.**

**MINUTES:**

**Kilmer MOVED to accept the minutes of the Regular Town Bd. Meeting of September 26<sup>th</sup>. Seconded by Langlois and carried 5-0.**

POST AUDITS:

**Ceretto MOVED to approve the following items for Post Audits: Home Depot \$680.45; Office Max \$150.94; Office Max Credit Plan \$42.66; Sam's Club \$77.04; Sears \$399.85 and N.Y. State Unemployment \$56.08. Seconded by Johnson and carried 5-0.**

OLD BUSINESS:

Oak Run Estates – Final Plat:

**Kilmer MOVED to accept the final plat for Oak Run Estates. Seconded by Johnson.**

Newlin: I think they are asking a variance from the Town's existing code requiring sidewalks. I would like to see sidewalks in any new project that we do as it keeps the seniors, children and everybody else off of the streets. The law has been on the books for a long time and sadly it has fallen by the wayside. From my perspective, I think it should be included.

Ceretto: There is a nice pathway system that we put up on Fifth Street. Would you consider instead of having sidewalks through the development and I know it is costly but maybe one side of the street? Or one particular path on the long run.

Glen Andrews: The problem that we have with sidewalk issue is when do the sidewalks go in. If every homeowner who builds a house puts a chunk of sidewalk in it is going to look like a patchwork quilt. If this is something that you are going to insist upon, then we would say that we would like to see you put something in escrow for the whole project so that when the people come in for the permits put an "X" amount of dollars in escrow for sidewalks and when the whole subdivision is complete then hire one contractor to put all the sidewalks in at once or put a path in as you say. It is going to be semi private and not on the main drag so I don't believe that sidewalks should be that important. The roads are fairly wide. We prefer to keep it like the other subdivisions in the area.

Ceretto: From my perspective sidewalks are nice but overall you have a nice project. It will be an enhancement to Lewiston. I would not vote against the project if it didn't have sidewalks but I would certainly like to see sidewalks.

Glen Andrews: At this time we would like to continue with the variance that we asked for the sidewalks.

Newlin: Do you have a projection now on the average price of the houses there?

Glen Andrews: The houses vs. the lot are 2 different issues. We are selling the lots. The houses with minimum square footage (2-story) and the houses with the home costs are changing daily. I would say the range is probably around \$150,000 and up. Our subdivision shouldn't be an exception to that.

Newlin: I will remind the Board that with each new house we approve in this Town we have to remember the added impact and burdens that it places upon our personnel ranging from police, highway, sewer, water and of course personnel is the highest cost we have. I hope this will be taken into consideration as we look at future developments.

Langlois: On the issues of sidewalks, we did require sidewalks for a certain portion of Riverview project and I think that was very much a good idea. For this development because of the cul-de-sacs etc., I don't think you necessarily want sidewalks in there. But on the main roads that come out to Fifth St. or other streets essentially lead up to the cul-de-sacs it might be a good idea to have sidewalks when the development is done for that area because we do have sidewalks on Fifth Street that go all the way from Morgan Drive into the Village. So, the people that come out

on Fifth Street to a continued sidewalk. I would be in favor of limited sidewalks in the area.

Kilmer: We are at the final stage and we can't say limited sidewalks, which could mean 2-4-10 lots. We would have to be a little more professional in giving them the direction that the Board would want to see in sidewalks. I myself live in a community that doesn't have them and I think it is a cost saving to the community not to have sidewalks because as in Niagara Falls the sidewalks don't match up which happens after about 30 years. That is one reason why I was opposed even in Riverwalk. I know it is different closer to the Village and it's environment. To me it is a cost that we are bearing that we don't need because once they turn them over to the Town they are ours to maintain for life.

Ceretto: We as a Board have to decide because I can understand the developer's perspectives to this as sometimes we give the waivers and sometimes we don't but we have a code that says sidewalks. So our law says sidewalks and that is why you ask for the waivers and we as a Board outside of yourselves probably should take another look at that. You can't say yes or no to developers because it is just unfair. I can't blame any developer at this point since we have said no because we have given the waivers that everybody would ask for that. So, that is an internal problem.

Langlois: I don't have the prints in front of me that say which particular streets and what length ought to have sidewalks. I could see if you do it on one side because people could cross the street to walk on the walk there.

Johnson: This is contiguous to Morgan Farms area and will come out on Hickory Lane and you have no sidewalks in those areas so you are kind of blending with a development that is similar.

The Board at this time reviewed the map of the subdivision.

Kilmer said this should have been done before we approved the preliminary plat. It is frustrating to me and I am not even a developer. I would think you would have told me that before you approved the preliminary plat.

Langlois asked if we had talked about sidewalks in the preliminary plat?

Newlin: Sidewalks are the law in this Town and the Planning Board voted that it wasn't required but the Town Board has the final approval. They approved the variance.

Langlois: Is this the last chance that we have to ask for sidewalks?

Leone: Yes, unless you adjourn the proceedings and have them come back and do it all over again. (Do we need to have another public hearing?) If you subsequently change the plans.....

Johnson asked what the Planning Board recommended?

Leone said that the Planning Board recommended that it be approved with the variance. No sidewalks.

Kilmer: It is absolutely correct that every time some people asks for this variance for sidewalks we have given it to them and to ask one developer to spend a half a million in sidewalks and not another.....Riverwalk offered us because they had such contested residents. The residents could not stop that project so they said we want sidewalks.

Newlin said that Mr. Langlois and he had pushed very hard to get some sort of paths to get people off of the streets at the time.

Langlois said he would guess that it is the consensus of the Board that you don't want sidewalks and I not going to put up an amendment just to have it fail.

**On the Motion, to accept the Final Plat of Oak Run Estates, Ceretto, Johnson, Kilmer and Langlois Yes; Newlin No. Motion carried 4-1.**

CORRESPONDENCE:

Item #1: Request from Lewiston Development Group LLC for Final Plat approval for Vista North subdivision, a 34-lot single family subdivision located off of Ridge Road. We are requesting the public hearing as required for action on this matter. Engineering drawings have been modified as directed by the Town Engineer.

Lannon stated that he had not reviewed the revised plans as of yet and would be reviewed in a couple of days.

Leone said you can set the public hearing subject to the Engineer review and if there is a problem it could be cancelled.

**Langlois MOVED to hold a Public Hearing on Nov. 14<sup>th</sup> at 6:45 p.m. for the approval of the final plat for the Vista North Subdivision subject to a review by the Town Engineer. Seconded by Kilmer and carried 5-0.**

Item #2: Please be advised that Upper Mt. Firefighter Zoran Obradovic has completed the pre-requisite courses in preparation to be sworn in as a Fire Police member of the Town of Lewiston. He is awaiting notification.

**Motion by Johnson to accept that Zoran Obradovic be sworn in as a Fire Police for the Upper Mt. Fire Company. Seconded by Ceretto and carried 5-0.**

Item #3: The owners of the Model City Inn are requesting the thirty (30) day notifying period for a license renewal be waived.

**Motion by Johnson to approved the waiver for the Model City Inn. Seconded by Kilmer and carried 5-0.**

NEWLIN:

Legal: We have an item to be discussed in an Executive Session.

Advertise for 2006 Boards, Committees and Commissions:

**Motion by Ceretto to authorize the Clerk to advertise for 2006 Board, Cmtes. & Commissions. Seconded by Johnson and carried 5-0.**

NYPA Update:

Last week the Power Coalition met. Mr. Langlois and I on behalf of the Town pushed for our call for an audit as reported in the press. We want to know how money has been expended and Mr. Boniello stated his strong opinion regarding this. We made some progress. Mr. Ross felt that he first wanted to gather the information and present it to the Coalition next month and from there we will decide if there should be an audit. Everyone on this Board looks forward to a full accounting. The in-house counsel Mr. Murray conveyed to me on the phone that the Town is worried of a semblance of a conflict of interest where we have Mr. Zito who is still under the employment of the Coalition and Mr. Roscetti who is the retained attorney for the Niagara Falls School District The school district is a member of the Coalition and it seems they are doing work for Erie Cnty. I think those at the Power Coalition meeting were in agreement that the Erie Cnty. interests are in fact a competing interest to that of our own. We let our feelings be sent to Mr. Zito and Mr. Roscetti. We are in the preliminary stages of figuring out what to do with the electricity that will be coming to us. The Town of Lewiston has the highest in terms of municipality's entities outside the county, which represent all of us. In terms of the power, we are getting 6 ½ megawatts. This Town will do it's best to set some sort of entity. Right now, the current thinking is to set up a Municipal Distribution Authority (MDA) that would distribute this power. We do need some flexibility as a Town in

this area. Our first priority we have identified unanimously as a Board is to reduce the rates that consumers here in Lewiston pay for their electricity. I can't think of more fair way to compensate the Lewiston taxpayer for the burden of hosting this 2400-acre enterprise within our Town. Beyond that, as we know here on this Board, residential usage is of a very small caliber or load, especially compared to that of industry.

I think the second priority for this Town will be to expend that power to some worthy organizations...Mt. St. Mary's Hospital has approached me that they would like to see some reduction in their power bills so I think if the Town has any excess power that is not being used by the residents at a particular time, I think we should strongly consider giving it to the hospital, fire companies and as well as businesses that would like to stay here. If we can attract some good new businesses I think that is a good thing also. The power will not be coming until 2007 and those decisions will be made by the Board at that time. We cannot make a vote that is going to bind them. I think those are things we all have to look forward to as a community reducing residential rates and keeping and attracting businesses here.

Mr. Kilmer reminded me that he had a letter for us to request a FOIL act.

Kilmer: It is a FOIL request to Mr. Ross because we have been asking for it verbally and the Clerk's Office prepared a letter. We put down the law that they would be violating if they didn't give us under a FOIL request the 6 items that we have been asking for.

**Kilmer MOVED that a FOIL request letter for audit information be sent to the Power Coalition and the Supervisor be authorized to sign letter. Seconded by Langlois.**

Newlin: I think it is a pretty straightforward memo and just to make sure we get all the information that I think we are due as fully participatory members. From that we can make some good decisions about whether or not an audit is appropriate but I believe it will be.

Johnson: You have asked for it and you have not received it?

Kilmer: When Mr. Zito and I were engaged on how they were operating the Coalition which I thought was in secretes in some ways and I thought he was not working for the Coalition but the Power Authority...I asked at that point and the Supervisor agreed for an audit of where the \$210,000 a year for the last 5 years has been spent. They have been stonewalling. That is the taxpayer's money from 7 entities. We pay in our school, town and county taxes. It is absurd that we didn't have this accounting practice in place for all these years.

Newlin: I have reminded them that they are a duly organized and constituted not-for-profit corporation under the State Charter of New York.

Kilmer: Someone should review the receipts and they should have been authorized by one of the municipalities. This will start the motion to get the documents that I have been wanting to get.

Ceretto: Anytime you spend public money it should be open to the public. Is that a legality that it should be?

Boniello: We are member of this organization, which is a not-for-profit corporation and they should have kept books for the last 10 years that they have collected approximately \$210,000 a year. There has not been an audit although the Supervisor requested at the very first meeting. There has been no accounting provided other than a page and a half form, which did not have any documentation. At the meeting last week, there was concern by all the members of the Coalition based on what the Chairman expressed to them regarding the gap in the bookkeeping. However, the members agreed to adjourn for 30 days or until the next meeting and determine what

there ought to be at that point in time. We have also requested that information in writing at the direction of the Board and we never received a response. Other than the 2-page document that we received from Mr. Zito, I don't believe any financial records have been provided to any member of the coalition. Yes, we are entitled to it. There are many, many issues as Mr. Kilmer said relative to the Coalition that I suspect in time will come out.

Ceretto: When we do get this information that not we (the Board) but we provide it for the public and to the papers.

Leone: They may tell you that the FOIL is not adaptable because it is a not-for-profit organization. My advice is to go ahead and file the FOIL anyway and see what happens because if it isn't, there is a specific provision of the Not-For-Profit Corporation Law that entitles members of that particular entity to an accounting and it is suppose to be done annually. I think it is a good start.

Kilmer: We put together a letter and it quotes the law.

Leone: At the meeting, the Chairman had indicated he would not be signing any checks until the next meeting.

Newlin: People are not getting the same level of concern that we have.

Johnson: From the beginning when this corporation was set up, they were suppose to give us an annual report in detail and they did not.

**On the Motion, carried 5-0.**

Kilmer: Regarding the newspaper article about the conflict of interest, Mr. Zito is quoted as saying "I was never involved except other than putting the Power Authority in the room". He is talking about Erie County. If that is not a conflict of interest...his job wasn't to put the Power Authority in a room here, his job was deal with Power Authority for the Coalition. I tend to wonder where his loyalty was the whole time.

Langlois: On the Coalition meeting we were at, there is a subcommittee of 3 people (Mr. Richards, Mr. Ross and Mr. Granto) who are looking at how it ought to be organized for the future starting next year. We really don't know yet how much money it is going to take to run the Coalition next year or how it is going to be organized....if it is going to be a volunteer job or etc. They are supposed to come up with a recommendation. We still do not have their recommendation. There is \$117,000 minus a bill or two that has not been paid. With \$117,000 and having most of all of our work done, it would seem it could take care of next year's budget. We have put no money in our budget for the Coalition next year. For some time, we have been trying to get the experts examine the power (Niagara Mohawk etc.) because I think it is much simpler to carry off from what we have been led to believe by some people. I don't want to see a big organization set up with paid jobs to do something that can be done simply by contracts with people. If they don't get this group together with the coalition by next month we should set up our own meeting with them.

Johnson referred to two outstanding bills to Harris & Beach and Mercury Public Affairs that have not been paid as yet.

Newlin: One item that was discussed was the bonus payment .... I put a motion forth to the Power Authority that we expected payment of a bonus by Oct. 27<sup>th</sup> and a letter has been drafted to the Power Authority and received. The municipalities have provided their electronic banking information. When they are made we will announce publicly. It will cost money to set up a proper power entity....the first analysis will be using an MDA. We will be using Power Authority money to set up such a project. The Town stands to receive 1.3M in signing bonus money. From that large portion that should be set forth a capital project that will build the MDA or

entity to distribute the power officially. That is a benefit that will be coming to this Town for 50 years.

Johnson: I think the other entities of the Coalition are not interested in doing power. They want to sell it for money. But, they can't. They have said that they are only going to use it their public buildings. We know what we want to do with it...we should find someone who knows what they are doing and not a recommendation from them. We should sit with somebody and start talking with them. Does the whole Coalition want to get involved in it?

Newlin: Some do. The City of Niagara Falls wants to use their power for economic development. The County has not said much beyond paying for their current infrastructure, buildings, streets, etc. This Town has always been a head of the curve in terms of knowing what it wanted to do with the electricity. We have always had our eyes focused on this. Other ones have been more concerned with the money, which is important, but the real value is the electricity.

Kilmer: The County already has a Muni set for years. They receive their power without doing a lot of work. I believe we have 2 school systems in Lewiston. We have ourselves and we have the Tuscarora Nation. I think the 4 of us team up.... I do not want to deal with the same coalition members that we have dealt with to get what we got. We got what we got because we fought not because they saw our needs.

Newlin: I think that Lewiston is unique in supplying power to its residents first so that alone will entail that we have a separate entity. Originally, in-house attorneys were telling us that we were going to have one Muni, but now they saying we should have 3 or 4.

Ceretto: Ten years ago we formed that Citizen's Advisory Committee regarding the Modern monies and they came up with a plan. We did tax cuts, economic development and infrastructure. Maybe, we need to look at what that committee did and review it. There were successes with that plan. Everyone that is on this Board in the future will also want to do a good job. If we divide the money up the way we did it with economic development, infrastructure or tax reduction and I think we have to have a plan.

Newlin said we are going to need a lot of public input but, in contrast to the Modern agreement this money is very narrowly focused on capital infrastructure projects. We could not take \$100,000 for a tax cut directly. The Power Authority wanted to make sure we did not inherit a number of pet projects that may come and go and not be of much use. It will be a focus on the list that will improve this Town.

Johnson: We should set up a meeting with the school systems because they would be using the power from 7:00 a.m. to 3 or 4 o'clock and after that there would be excess power. Maybe we can convince them to work this thing through so we can get additional power savings for our business clients too.

Newlin said that in speaking with the school boards, residential and education uses are complimentary times of usage. The Town has a lot to look forward too and I think everybody will be benefiting from this for a long time.

Bordering Crossing Issue: Today there was meeting and I spoke with Senator Schumer, Congressman Reynolds and Congresswoman Slaughter on this issue. We have to keep as many of the benefits locally and I informed them of the importance of this Niagara County project. I think everybody represented a Town from this side of the border to those who represented those on the Canadian border and the idea of having passports for every person on a border crossing was detrimental to the economy. Both sides are trying to have tourism grow and this is the last thing that we want and the rumor of passports has hurt businesses. The congressional delegation will be getting word to the federal government that some sort of a more uniform I.D. system that will make the border crossing more careful.

As a credit to the Town's deal (Power Authority) is that we have seen so many municipalities trying to jump in now and get money. The Town for many years made an effort to get involved in the NYPA issue. We have had a 10-year commitment. To the Town's credit is that they did have this focus all the way through and we did get a good deal. What is happening is private industry is now worried that if bigger and bigger checks are cut to other organizations (i.e. Erie Cnty.) that the cost of that benefit will then be passed on and therefore local industry would lose the one true competitive advantage that they have which is low cost power.

Budget Update: We had a budget meeting last week and there were no major changes to the budget there. We are on track for no town tax next year and an overall reduction on spending that approaches \$500,000. We will have a public hearing on the budget on Nov. 10<sup>th</sup> and a budget meeting on the 17<sup>th</sup>.

Police Personnel:

Winkley: Officer Stephen Godzisz has submitted his resignation from the Police Dept. effective Nov. 30, 2005. I have recommended that we hire Lauren Passanese as a Police Court Officer and the recommendation was voted on unanimously by the Village and Town Boards.

Emergency Appropriation: At the work session, it was noted that there was an emergency situation in the Highway Dept. with regards to a 1-ton dump truck that is beyond repair. A motion was made to appropriate an amount not to exceed \$36,000 for the Highway Dept. to expend on a new truck w/plow.

Kilmer: When you increase a budget you have to have a public hearing. If we are taking money out of a fund balance is that increasing the budget if it is an emergency purchase?

Newlin: We were advised by our auditor to appropriate the money out of the BD surplus account. It is not in the budget.

Leone asked if it was coming out of the contingency account.

Kilmer: No, it is coming out of fund balance for the Highway and we are increasing the 2005 budget by \$36,000. You could take the money out of the snow removal line and see if we could "coast" through.

Johnson stated that the budgeted line is at \$120,000 and he (Reiter) is at \$118,000 so it is pretty tight.

Langlois said that the Highway Dept. had not received funds due from the County and the State. (CHIPS)

**Ceretto MOVED to hold a Public Hearing on Nov. 14, 2005 at 6:30 p.m. to move funds from the BD fund balance for the purchase of a new truck. Seconded by Kilmer and carried 5-0.**

LANGLOIS:

The Recreation Cmte. met to discuss programs and the budget. They have said that there are areas that they need more money for and they have not had a budget increase proportionately as have other departments and have rational for it. We now have twice the number of children in programs that we had 4-5 years ago. We have a wonderful recreation program and we want to make sure that it is properly funded. They will probably come to the public hearing.

Newlin: My Supervisor's budget allowed for a 16% increase in the recreation budget and I think that exceeds any other departments.

Langlois said it is a question for discussion.

WPCC: There are no items at this time for discussion.

Parks & Recreation: We have a request for the purchase of two items. #1 is for hand dryers at Kiwanis Park & Pletcher Parks. Second is a riding lawnmower. Money has been budgeted.

**Langlois MOVED for the purchase of hand dryers for \$1075 and a riding lawnmower for \$7,249. Seconded by Kilmer and carried 5-0.**

Kiwanis Park Shelter: I had thought that there would be small individual bids on this project which would be less than \$10,000 and we did not need to have the Board approve each of them. However, all of the work was combined into one bid package and we received two bids on the project in the amounts of \$25,300 and \$24,850.

**Langlois MOVED to award the contract to Valery Contracting Inc. in the amount of \$24,850 pending approval of the Town Attorneys. Seconded by Ceretto and carried 5-0.**

Casino Monies/St. Mary's Hospital:

Langlois: The monies being appropriated from gambling in Niagara Falls which the County and the City are fighting over and I noted that Memorial Hospital has been allocated a certain amount of money. If both hospitals are having some financial problems and with St. Mary's Hospital having over half of their patients from Niagara Falls .... and in addition they operate a community medical center on 9<sup>th</sup> Street. I have been told they subsidize for over \$700,000 every year...so why doesn't St. Mary's Hospital get an equal representation on the part of this money to help the local hospitals? I think both hospitals have financial difficulties. If we are going to help one with that kind of money and if both hospitals are serving the greater population of Niagara Falls, Lewiston etc. it would seem to me that they should get consideration for an equivalent amount of money or at least be considered for it. People at St. Mary's said that they have been asking for this for some time but get stonewalled. Perhaps we could send a letter from the Town Board to the people involved (Maziarz & DelMonte) with the key decisions and explain the idea that with both hospital having financial problems why not allocate the appropriate amount of money to each one.

**Langlois MOVED that a letter be sent to Sen. Maziarz and Assemblywoman DelMonte asking for consideration to allocate an appropriate amount of money to each hospital from the casino revenues. Seconded by Ceretto.**

Kilmer: In the correspondence, that **if** you are going to allocate, we have to have equal allocation.

Johnson: I am going to oppose the motion, because I have been criticizing the County for them to sue the City of Niagara Falls for their portion of the monies from the casino. Because of the fighting between those 2 parties, this money is holding up business that could be developed in Niagara Falls such as infrastructure and new projects. I think it is a waste of taxpayer's money to be fighting and suing. When that casino pact was put together a long time ago, everybody should have been there at that time. Not 25% that goes to Niagara Falls because they are taking the biggest hit....if you look at the monies allocated within that 25%, some goes to the County, local hospital and other entities including USA Niagara which is part of the State. Why doesn't the State take some of their 75% and give it back to the County and put some money to draw for the hospital? For us to jump on the bandwagon now with the situation as it is now, I can't do it.

Ceretto: We can't go back to the should of and would of's , the facts are that this is in the courts. The courts are going to decide and I don't think we can pull out at this point. We have to wait and see what the courts are going to do. Myself, if I am on the county legislative next year and if the county does get a portion of it that I would like to see that money used for economic benefits for the whole county as well as the city. One of the things that I thought was the airport that would benefit the city. We

have to bring in new money to the area....I am not off of the issue because we are talking about hospital funding.....

Newlin said the motion is about sending a letter directed to....

Ceretto: We are talking about bring casino money into the area and the courts.

Newlin: No, into the St. Mary's facility specifically.

Johnson stated that 1M goes into the air base.

Langlois asked that we limit the discussion to the letter asking that St. Mary's be considered along with Memorial Hospital....that was the purpose.

Newlin: I would like to see the wording on that first.

Kilmer: We are not asking to be part because I agree that the suing is ridiculous but the letter is simply to say that if you are going to continue this "childish" action and fighting .... that when you divvy up the pie, divvy up a little bit to a hospital that is in our community that would benefit one of our largest employers in Lewiston. I am not saying to join the bandwagon and sue but if they are going to give a piece of pie and give it to Memorial Hospital, I think it should be split between the 2 hospitals.

Johnson stated that he would rather go to the State and say out of your 75% of that money why don't you jell some of that money out to our libraries and hospitals within the area.

Newlin asked that Mr. Langlois put it in writing.

**Newlin MOVED to Table until a letter is submitted in writing at the next meeting for the Board to review. Seconded by Kilmer. On the Motion, Ceretto, Kilmer, Johnson and Newlin Yes; Langlois No. Motion carried 4-1.**

JOHNSON:

Proclamation Request: A Lewiston resident, Al LaChance is retiring after 36 years in the military service. I would like to have a proclamation prepared honoring him.

**Johnson MOVED that a proclamation be prepared by the Clerk's Office honoring Mr. Al LaChance on his 36 years of service to his country. Seconded by Langlois and carried 5-0.**

Engineering: We need to award the contract for the Sanitary Sewer I & I Reduction & Creek Road Drainage Improvements.

Lannon: I would like to offer for consideration a letter dated today addressed to Sup. Newlin regarding Contract #12. Five contractors pickup the spec books in preparation for bidding. We believed that there was going to be 2 bidders, Milherst Const. & Yarussi Const. Apparently, Yarussi thought the time of the bidding was 2 p.m. not 10 a.m.

Newlin: If the Board does not think there were enough bidders, we can throw the bid out and re-bid. This is an option.

Kilmer said it was unfair to the company that bid.

Lockhart said the bidder is in the "ballpark" of what we estimated for the project and we have a window of opportunity for some construction that takes place on the Lew-Port campus. We are anticipating that we maybe able to dove tail that activity over the Christmas vacation. If we throw the bid out, we would miss that window probably.

Langlois asked if this is a legitimate contract? (Yes) So, someone didn't make the bid and unless you think these are way out of the ballpark....in your opinion this is a fair bid, so let's award the contract.

**Kilmer MOVED to award to Milherst Construction, Contract #12 in the amount of \$377,310. Seconded by Johnson and carried 5-0.**

KILMER:

CAC Meeting: We have a pre-CAC mtg. where we get together our questions that we want answered at the actual CAC meeting. It has proven to be very fruitful because when we go to the meeting we actually have questions answered. It is been very effective. The next meeting is Dec. 2<sup>nd</sup>.

Custom Lighting: Until Amherst actually votes on this and hires the people that are going to do it, I will continue to remind you of this.

Newlin: The school board has asked me if taking over those "posts" would affect assessed values. We will be speaking with them about this.

Johnson: They (Niagara Mohawk) pay a tremendous amount of taxes to the Town and that is probably why they are asking about this.

Kilmer said he would check the assessed values.

Paving: When Mr. Reiter asked to do this paving project that we bonded, I was reserved about letting him do it. It was a \$70,000 initial savings. For all the reasons that I was concerned about giving it to him is coming true. We are a month behind in the paving schedule and there are issues that I have brought with the Engineer that he addressed are going to be fixed. We have leaves getting ready to fall. A Highway Dept. is a Highway Dept. that has a lot of things to do at different times of the year. When we added almost 5 miles of road to his paving schedule, I knew this would be a burden that we had to make in a time schedule that we gave him. Let him pave 4-5 miles of road a year that he does traditionally and if we decide to do something above and beyond hire a private contractor. I know we are not going to make it.

Ceretto: On the project that everybody has in front of them, he has not completed on the shoulders. This is some of the things that Mr. Reiter told me....it shows up that there is an \$80,000 savings since he has done the project. He is planning on spending another \$15,000 on driveways and shoulder work. Overall having Mr. Reiter do the work will save the Town of Lewiston and the taxpayers \$65,000 which is a tremendous savings and is valuable to the residents of our area. Our job is to cut costs.

Kilmer: Do you know what the cost is every payroll of highway is? It is about \$21,000 every payroll period. They have been doing this project for 2 months on and off. The \$65,000 is just about eaten up in payroll. The Town of Lewiston taxpayers are paying for his men to be out there and he used a different material that was bid by Cerrone Inc. which ended up saving about \$10,000. He used a type 7 instead of a type 6. It is almost a wash, but what isn't being done by our highway crews for 2 ½ months because they are paving. Something is not being done. I don't believe giving him that much work in the last quarter was a good idea. The savings look good on paper but it is turning out not to be a cost savings.

Johnson inquired about the lighting at J.J. Cabin's Rest. at the bottom of Indian Hill.

Kilmer: The Lighting Cmte. said that they had no problem putting lights on the poles across the street.

**Kilmer MOVED that the Town Board request that Niagara Mohawk install lights on the 2 poles across from J. J. Cabins on Ridge Road. Seconded by Johnson and carried 5-0.**

Johnson reiterated the dangerous situation at the bottom of Indian Hill Road and has observed vehicles going around the barriers.

CERETTO:

Liaison Reports: I have nothing to report as I was here for our meeting.

Highway: We have taken care of the snowplow replacement.

Drainage: In speaking with Mr. Reiter, he is willing and suggested that that the engineers and he go out and look at the situation.

**Ceretto MOVED that the Town Engineer and Supt. Reiter review the Bridgeman Road complaint of E. Chapin regarding a drainage problem and report back at the next work session. Seconded by Johnson.**

Lannon: There was a discussion about an undersized culvert underneath the road and if this is the same topic we already know what the solution is. I will recheck with Mr. Britton and Mr. Reiter on this.

**On the motion, carried 5-0.**

Newlin: With regard to the Library issue, I have met with Ms. Sievert, Mayor Soluri and Theresa Donaldson. We went over the idea that the Library try to seek re-chartering and they have started on that work and it would become a whole town library. I will be going to the Board of Trustees meeting and speak with them regarding this issue.

Langlois: In the meantime we still have the funding difficulty in trying to get the Village to contribute a portion of it. I gave all of you a copy of the Board resolution of two years ago which essentially tells the Library and the Village that we would live up to the only legal contract in existence which calls for us to pay 60% and the Village still 40%. We went thru months and years trying to get a negotiated new contract with the Village perhaps with less than 40%....we even went down to around 25-30%. The answer was no and they like paying zero. It bothers me that the people outside the Village even though the Village has 40% of the use of the Library and saying to me and my neighbors who live outside the Village pay our share. It is just unfair. In the meantime are we going to continue to subsidize part of the Village's share? According to your budget, we are.

Newlin: I am happy to stand by the budget decision that I made. It sounds like the Library will be able too....I didn't get any criticism from the Library. The final budget has not been approved yet and as it stands now I will stand by the numbers that I submitted.

Langlois: In order to do that...the certain amount in the budget you are doing is to rescind the resolution that we made two years ago that said that we would only pay 75%. I talked with our attorney here and he said we need to rescind that resolution if you are going to give.....

Newlin said we will address that issue at a later budget session.

Langlois: We gave them more than that last year and it was illegal. We violated our own resolution.

Newlin stated that he believes that one Town Board cannot bind the hands financially of a successive Town Board. Budgets reflect the popular will of the public at anyone moment.

Langlois: I asked our attorneys and they said the way around it is to essentially rescind the resolution or get a new resolution. Is that correct?

Leone: That clears up any confusion.

Johnson said that the number that we have in the budget is from what their request is.... probably about the 75%. When you look at the number that we give vs. what they really wanted.....their budget was up over \$400,000 when they came to us a couple of years ago.

Newlin: What has happened is that when the Town first thought it could bail out of it, we had a hazardous waste tax that was generating revenues in excess of one million dollars and now those revenues have shrunk now to about \$275,000 this year. The Town thought it could fund it out the "A" fund and the "A" fund was being funded to the tune of over one million dollars by the hazardous waste tax. Those receipts have dropped by 75 to 80% and we are left with a lot less revenues.

Langlois: The budget isn't revenues...it is what fund it has to come out of to share. We are not allowed to use whole town funds by library law. We have had 6 attorneys look at it.

Newlin: It looks like they are going to look at that re-chartering.

Kilmer: I think that all Mr. Langlois is trying to do is change the resolution or abandoning the resolution.

**Motion to adjourn into an Executive Session with regards to personnel and legal matters made by Kilmer. Seconded by Johnson and carried 5-0.**

Time: 8:35 p.m.

Executive Session:

Present: Sup. Newlin, Councilmen Ceretto, Johnson, Kilmer & Langlois; Tn. Atty. Leone, Deputy Tn. Atty. Boniello; Deputy Sup. Elgin & Bldg. Inspector Coulter.\*

Discussion on personnel issue related to Building Inspector's office. No action taken.  
\*Coulter left at 8:50p.m.

\*\*Minutes taken by Deputy Atty. Boniello

Present: Tn. Clerk C. Brandon\* & Police Chief R. Winkley.

Discussion on personnel issue re: employee in Town Clerk's Office. Attorneys to review letter. No action taken.

\*Minutes taken by Tn. Clerk Brandon.

Meeting adjourned at 9:10 p.m. by mutual agreement.

Respectfully submitted and transcribed by:

Carol J. Brandon  
Town Clerk

