

REGULAR TOWN BOARD MEETING October 16, 2003 7:20 p.m.

Present: Supervisor S. Maslen, Council Members Ceretto; Johnson; Kilmer & Langlois; Tn. Atty. E. Brydges; Dpty. Tn. Atty. J. Leone; Adm./Op. T Lockhart; Fin. Officer E. Evert; Eng. D. Britton; Bldg. Zoning/Officer R. Coulter Police Chief R. Winkley; Highway Supt. S. Reiter; Rec. Dir. M. Dashineau; Dpty. Sup. C. Stojak and Town Clerk C. Brandon. 3 Press and 60 residents.

The Supervisor opened the regular meeting, followed by the Pledge of Allegiance and a moment of silent reflection. Councilman Kilmer asked that we keep in our thoughts former Councilman George Briggs who is recovering from heart problems.

RESIDENTS:

Richard Bradt of 500 Pletcher Road. In listening to all the people about the concept of the patio homes etc., I get the impression from a lot of people that they feel that we are anti-development and anti patio homes. That is not our position at all. We are anti changing zoning laws or allowing the developer to have smaller lots in an area. That is our position. That is how we would like to have the Board vote

John Merino of 530 Morgan Drive. I am the newly elected President of the Friends of the Lewiston Library. I have passed out the annual report at the annual dinner. I want to talk about the budget for the library. It has been bantered back and forth for a couple of years now. When I serve on this Town Board, we went through a four-year process of negotiations with Modern Corp. It was a bi-partisan Board. It was done with both Republicans and Democrats. The one thing that we adhere to and the consensus that we managed to come to was that the dollars that would be realized as a benefit from having Modern Disposal in our community as a good corporate citizen, the dollars that should accrued to the citizens of the community should go to benefit their lifestyles and the quality of life that was here i.e. fully funding the senior center, creating a valuable and reasonable and a successful recreation program and fully funding the library as well as children's programming in Artpark meant for the children of Lewiston not as a separate contribution to Artpark's non profit group. It was meant to fund programming that would benefit the children. If you would go back and look at the minutes of those negotiations you will see that when the conclusion was reached by us, the bi-partisan board and the agreement that we came to in order to accept the final deal with Modern Disposal and the dollars that we got that specific categories were set up for where those dollars were to go. Cutting back on the library was not one of the things that we wanted to see happen. I am not sure that you have taken the step in any type of legal process to go back and negate the decisions that were made on what percentages of those dollars were suppose to go to benefit the quality of life in this community. I bring that up not because your job is easy and not because you haven't had to go through expansion decision-making process with Modern and you have done that already. All well and good. They have proven to be a good corporate citizen. For the most part the Town Boards have proved to be pretty good stewards of those dollars. But, I think it is important to remember that the quality of life issue was the major question. Thousands of people in Lewiston signed petitions wanting to see Modern leave and when we came to the table as partners with them in order to make the relationship between their facility and the community of Lewiston a positive one for both sides the promise that we made as a Town Board that you inherited as a Town Board was to insure that those dollars were spent to enhance the quality of life. As good as corporate citizen as Modern is a dump in your backyard is still detracts from the quality of life. I want you to keep that in mind when you are talking about cutting back on the dollars for the Lewiston Library, cutting back on senior center fund or cutting back on recreation funding. Those dollars had specific purposes and specific percentages and I think if you take the time to go back and look at those agreements as they were rendered and if you haven't already done that in private meetings to negate those decisions you will see that the purpose of us accepting the relationship was to make sure that the quality of life stayed a quality of life.

Maslen: Do you remember what the budget for the library was in 1995?

John Merino: I think it was about \$50,000 more than you currently have it earmarked for per year. You have already cut it back. I think the request this year was for \$417,000 and as I understand you have cut it back \$300,000+.

Kilmer: As the liaison, I conferred with the director and the trustees of the library and they are perfectly happy what has been allocated to them for this year.

Maslen: I am just asking you because of the dollar to dollar and the percentages. The moneys from Modern are still used for the quality of life in the community. It is just that the quality of life in this community is more expensive than it was five years ago.

John Merino: I understand that as well but when things like the golf course trickle in the way the dollars are spent there has to be a question whether that adds to the quality of life or whether existing entities should be supported first. I would like you to keep those things in mind. I will bring up the existing agreement and compare it to the new one that you have.

Gladys McNutt of 5951 S. Hewitt Drive. We are having a problem with our road. They have installed sewers (2-00) and when it was put back together they filled in road and it is bumpy. You have to take it slow and you will damage your car. They came back and had to cut the road again. It was filled in with just stone and it didn't last. I called the Highway Dept. and was told to call the Sewer Dept. Within five minutes there was an employee there who apologized and agreed that I had a good complaint and they came and threw some more stone in it. It is now down to a dip again. I do think and I have driven around Bronson Dr. and The Circle lately and it has a resurfacing job but I didn't think they was a need. If you have any blacktop left please put it on our road.

Rosemary Vanauker of 923 N. Hewitt Drive. This is in reference unfinished sewer project and it the line was laid a year ago this past August through the length and width of my property. My driveway and the ground have not been restored. I have tried repeatedly tried to get some kind of a commitment from the Town as to when they would fix it. I have called the Supervisor, written a letter to the tax receiver and even Mr. Brydges. The Town Board is fully aware of what I have written because a copy was provided to you. Yet, I get no response. I am here to get an answer on this matter and I have withheld a part of the connection fee in dispute over this and I refuse to pay any fine until this gross injustice is rectified.

Maslen: You are telling me that no one has been there?

Rosemary Vanauker: No one has answer my concerns.

Maslen: Please accept my apologies. I will have someone from the Sewer Dept. come to your home tomorrow.

Margaret Elnicki of 951 Edna Drive. They had to dig about 3 times right there on the curve when they put the sewers in. When they put the blacktop on, it is a mess. The snowplow comes by and picks up the blacktop and deposits it at the end of my driveway. My snow-plower come and he pushes up to my garage. This happens because the job is not done right. They never restored the grass in the front and the whole place is a mess.

Dan Vitch of 832 Foxwood Drive. I would like to know if the Riverwalk project will be accessible to the those with disabilities?

Joe Deck Jr. said that the homes do have facility adoption for those with handicaps. The ground floor could be adapted to ADA requirements if the owner wishes.

Dan Vitch: I just wanted to be sure that you are on record of telling us they will be ADA acceptable.

Maslen: By State law they are required. The Board is going on record as saying any building henceforth must be handicapped accessible.

Coulter: ADA is a federal regulation and is only enforced by the federal government.

Kilmer: Don't go on record as saying all houses. I think that is a private concern if you are going to contract with Ryan Homes to build one, wider doors etc. would be the person building the homes requiring those special needs.

Joe Deck Jr. I will go on record as saying that anyone of those homes can be built ADA compatible.

Ceretto asked if at this time, his son John could be introduced at this time. He is here because of Participation in Government (PIG) class.

AGENDA:

Johnson asked to add advertisement for Boards, Commissions and Committees.

Kilmer: Add Riverwalk Development project.

Johnson MOVED to approve the Agenda as amended. Seconded by Langlois and carried 5-0.

MINUTES:

Johnson MOVED to approve the Minutes of 8-25-03 Work Session; 9-08-03 Public Hearings on Swimming Pools/Signs; 9-08-03 RTBM; 9-22-03 Inform. Mtg. Liberty Circle and the 9-22-03 Work Session. Seconded by Langlois and carried 5-0.

ABSTRACT:

Kilmer MOVED to approve the Abstract of Claims 2874 thru 3357 and recommend payment in the amount of \$787,132.53 plus a Post Audit of \$65,925.78. Seconded by Langlois.

Ceretto: There was on the abstract an attorney contract and litigation fees for \$11,711.25 to Sargent & Collins. Can you explain?

Kilmer: It is about the grievances filed by the highway employees and we will have to go to court and we have to pay those bills.

Ceretto: So, instead of working with Steve Reiter it is costing us \$11,000?

Kilmer: It is not working with Steve. It is the employees who filed the grievance.

Johnson: Whom do they represent?

Kilmer: The Town of Lewiston.

Johnson: When did we hire them?

Kilmer: The payment line was under the Supervisor's contractual line and she has all the authority to hire.

Maslen: I can't handle all of the grievances myself personally so I hired under my contractual line these people to represent us.

Johnson: I don't remember ever approving hiring outside attorneys. If I have \$25,000 in my line item it doesn't mean that you can do that. You better find out if

you can legally hire an attorney to represent the Town of Lewiston without Board approval. That I don't believe.

Maslen asked if you are going to approve the funding?

Johnson: Well, you hired them. Did they already do the work?

Maslen: We are talking about the abstract.

On the Motion; Johnson, Kilmer, Langlois & Maslen Yes; Ceretto No. Carried 4-1.

OLD BUSINESS:

Sewer Complaint at 869 The Circle.

Maslen said she has provided information and I asked that our Sewer Dept. jetted the main sewer line and televised. They found a piece of plumber's snake in the trap and it was removed. The home was connected to the sanitary sewer on Nov. 1, 1979. Any replacement is the homeowner's responsibility. It is recommended that the homeowner be notified.

Comprehensive Plan.

Brydges stated the Mr. Spitzer has indicated that the work he was doing through the Committee's request has been completed. He will be meeting with the Planning Board and the Zoning Board's liaison, Mr. Conrad. After that he will meet with the Town Board and then meet with our committee with the final draft. He had indicated that before the end of the year we would have a document for the Board to vote on. After he meets with you, we will have a public hearing.

Re-Zoning – Innovative Marketing Solutions.

Brydges: I am requesting that we postpone this to the work session on Oct. 27th in order to give Mr. Spitzer an opportunity to look over this document.

Local Law re: Brush Clearing.

Brydges: You have a proposed change in the Town Code with respect to Chapter 7A., is entitled Disposal Garbage, Rubbish and Refuse. We added this section.

“No person, persons, firm or corporation shall cause to be disposed of by placing at the curb, street side or at any authorized disposal site for regularly scheduled municipal collection any trees, stumps, tree branches or brush where the owner of the property has contracted for the cutting down and removal of same. In such cases, it is up to the property owner and the contractor to make arrangements for such disposal. It shall be unlawful for any Town of Lewiston personnel or equipment to be used for this purpose.”

Brydges: It is self-explanatory. In the state of the situation we have experienced from time to time where we have a big clearing of a lot of property where a contractor been involved and yet all of those trees and stumps are dumped out front for the Town employee to pickup which is time consuming. I am asking that you move for a public hearing.

Langlois MOVED to hold a Public Hearing on the proposed change in the Town Law on October 27, 2003 at 6:45 p.m. Seconded by Kilmer.

Brydges said changes could be made at the public hearing and any that the Board wishes to.

Johnson: I thought that the contention of this would be for a vacant parcel and it would be contractor, notit says no person. So, if you had somebody that had to cut a tree down because of a storm that blew down....

Maslen: If they have a contractor that contractor takes the stump etc. away.

Brydges: The key is that it was a contractor involved. If a homeowner has a tree that falls down, of course the Town would take care of it.

On the Motion to have a Public Hearing, carried 5-0.

Local Law re: Swimming Pools.

Brydges: We have already had a public hearing on the swimming pool law and we now know that under the codes that were just enacted 1/1/03 for the Residential Code of NYS and the Building Code of NYS, all swimming pools that may contain water over 24 inches will be required to be fenced. There is nothing we can do about it and because of that after many meetings, I have drafted an amendment to the Town law that we had published. Then we had a public hearing. The swimming pool law is the same as published so I find no necessity to republish and have another public hearing. The only changes you will find in this document and the one published is in connection with the requirements regarding if the homeowner has a situation where the wall of the dwelling serves as part of barrier and then it describes what you have to do in order make that as part of your fencing. I don't think that requires another public hearing. We will read the law, but at the bottom of page two, you will find that sections D,E & F are the current law and no changes were made.

The Clerk read the following amendment.

AMENDMENT TO THE TOWN OF LEWISTON CODE

Chapter 30-58 of the Town of Lewiston Code will read as follows:

§30-58 Swimming Pools.

- A. The term swimming pools is defined as any structure intended for swimming or recreational bathing that may contain water over twenty-four (24) inches (610mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs or spas.
- B. All swimming pools shall require the acquisition of a building permit.
- C. Fencing requirements.
 - (1) All swimming pools, unless otherwise provide for hereinafter, shall be totally enclosed with a good quality wooden, chain link wire or other equivalent fence of not less than four (4) feet nor more than ten (10) feet in height. Every gate or other opening in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, shall be securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.
 - (2) Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:
 - (a) The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
 - (b) All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touch pad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372mm) above the threshold of the door; or
 - (c) Other means of protection such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by (a) or (b) described above.
- D. E. & F. are the current law.
- G. All such swimming pools must also comply with the Appendix G of the Residential Code of New York State. All non-residential swimming pools must comply with the Building Code of New York State.

Langlois MOVED for approval of the code as written. Seconded by Kilmer. On the Motion; Ceretto Yes; Johnson Yes; Kilmer Yes; Langlois Yes and Maslen Yes. Carried 5-0.

Liberty Circle-Proposed Sale.

Kilmer: I think that the resident comments that were received and based on this I think we should leave it as green space.

Kilmer MOVED that the property owned by the Town of Lewiston on Liberty Circle is kept as green space. Seconded by Langlois and carried 5-0.

Haz-Mat Land Purchase.

Johnson: The attorney has not been able to confer with the other attorney but I think we will have a draft of the contract prepared by the work session for discussion.

Uniform Bids:

Leone said he looked at the uniform bids that were submitted and they appear to comply with the specs and based on this to award the contract to the lowest bidder.

Brandon: The low bidder was Doritex our current provider and there service has been satisfactory.

Langlois MOVED for the awarding of the uniform contract to Doritex. Seconded by Kilmer and carried 5-0.

CORRESPONDENCE:

Item #1: From Mrs. Jacob, 4701 Lower River Road: On August 24, 2003 an estimated \$239.38 + tax of clothing (itemized list attached) were damaged by dirty water. This is not the first time this has happened. Last year, there was a water main break on Pletcher Road, which resulted in a \$480 loss of bedding. I refuse to take another loss and hold the Water Dept. and the Town of Lewiston responsible for my loss. I am demanding remuneration for my damaged clothing.

Maslen: I did not see these articles of clothing. Our Water Dept. did have some water issues partially because there is an area around there that doesn't have a free flowing water process and it ends up getting mucky at time. We have insurance but there is a deductible.

Brydges said that he would speak with Mrs. Jacob and get the details and report back at the work session.

Ceretto asked that subject to the approval of the attorney that we pay it.

Maslen said this is not the only resident. There were 2 or 3 incidents in that area and in some instances we were able to notify the residents of a problem.

Langlois asked that the attorney verify the cost and age of the clothing.

Item #2: The Planning Board on Sept. 18, 2003, approved a request from David Bowes for a one-lot on the east side of Ransomville Road, SBL#90.00-1-32.12. Attached is the response from the N.C. Planning Board recommending approval and the Environmental Commissions' recommendation for a Negative Declaration.

Langlois MOVED for approval of a Neg. Dec. for the subject property. Seconded by Johnson and carried 5-0.

Langlois MOVED for approval of the one lot SBL#90.00-1-32.12. Seconded by Johnson and carried 5-0.

Item #3: The Planning Board on Sept. 18, 2003, approved a request from Janet Raby for a one-lot on the north side of Ridge Road, SBL#89.00-2-12. Attached is the response from the N.C. Planning Board recommending approval and the Environmental Commission's recommendation for a Negative Declaration.

Langlois MOVED for approval of a Neg. Dec. on the subject property. Seconded by Kilmer and carried 5-0.

Langlois MOVED for approval of the one-lot SBL#89.00-2-12. Seconded by Johnson care carried 5-0.

Item #4: The Planning Board on Sept. 18, 2003, reviewed plans and a request from Saddlewood Development Association to reduce the density of townhouses from 1 six-unit to 2 buildings of 3 units and two units on Paddock Land and 4 twenty-three unit buildings be reduced to 5 buildings of seventeen units on Carriage Lane. The Planning Board recommends approval of this change.

Kilmer MOVED to accept the Planning Board's recommendation. Seconded by Langlois.

Maslen inquired about the SEQRA process.

Leone: It has already been approved.

Brandon: There is a letter regarding this by Pat Martin, Fire Inspector for the Town. The clerk was asked to read it.

Dear Supervisor Maslen and Members of the Board:

The Bureau of Fire Prevention has looked at the changes requested by Mr. Moll in this subdivision. In looking at its original plan and the changes, a conflict with the new Fire Prevention Code was discussed. Specifically, roads for emergency access are to be a minimum of 20 feet in width and buildings must not be located more than 150 feet from the access road.

To avoid any problems in the future, Mr. Moll was contacted and informed of these requirements. Mr. Moll will ensure that this will be addressed.

At this time, the Bureau of Fire Prevention has no problem with the changes requested by Mr. Moll in his September 8, 2003 request.

Sincerely,

Patrick Martin, Fire Inspector

Kilmer MOVED to Amend his motion to ensure that the Fire Prevention Bureau recommendations are followed. Seconded by Langlois and carried 5-0.

Item #5: Request from Gary Townsend, Sanborn Area Historical Society, to be placed on the agenda for the October work session to discuss the Strategic Development Plan for the Sanborn-Lewiston Farm Bureau.

Ceretto MOVED on the request. Seconded by Johnson.

The Clerk reported that Mr. Townsend would like to be first on the agenda as he would be inviting Sen. Maziarz and Leg. Simonson to come and be recognized relating to the museum and the railroad and that photos would be taken at the beginning of the meeting.

Ceretto AMENDED his motion, that the Sanborn Area Historical Society be placed first on the Agenda for the October work session. Seconded by Johnson and carried 5-0.

Item #6: Request from the Town Clerk to go out to bid for janitorial and HVAC preventative maintenance services. The current contract for these services both expire on 12/31/03.

Johnson MOVED to allow the Clerk to go out to bid on these 2 service contracts. Seconded by Ceretto and carried 5-0.

Item #7: Request from the Town Clerk to designate official Halloween hours as 4 to 8 p.m. on Friday, October 31st. This will coincide with the Village.

Ceretto MOVED that Halloween hours in the Town of Lewiston be from 4 to 8 p.m. on October 31st. Seconded by Kilmer and carried 5-0.

Item #8: The Sanborn Fire Co. herewith submits for active membership in said Fire Co. the following name: Gordon Woelfe, 5383 Bridgeman Road.

Johnson MOVED to accept for membership G. Woelfe. Seconded by Langlois and carried 5-0.

Item #8A: The Sanborn Fire Company herewith submits for active membership in said Fire Co. the following names: Melissa Ackroyd of 3080 Shenk Road; George Mathiebe Jr. of 3064 Saunders Sett. Rd. and Sandy L. Peck of 3122 Shenk Road. The prospective members are residents of the Town of Cambria but reside in the vicinity and are available to render active service as volunteer firemen.

Johnson MOVED to accept for membership those names as listed in said fire company. Seconded by Ceretto and carried 5-0.

Item #9: The U.S. Dept. of Defense is sponsoring a program to commemorate the 50th Anniversary of the Korea War. The American Legion Post #1083, along with VFW Post #7487, plans to recognize and honor Korean War veterans living in the Town and Village of Lewiston at this year's Veteran's Day ceremony at Academy Park at 11 a.m. and asks that the Town Board pass a resolution honoring the community's Korean War Veterans and invites all members of the Board to attend the ceremony.

Maslen said that we could recognize our veterans on the outside signboard.

Johnson MOVED that a resolution be prepared for this 50th anniversary. Seconded by Langlois and carried 5-0.

KILMER:

Liaison Report: Highway Dept. has done paving on Bridgeman Road , Bronson Drive, The Circle & Dickersonville Road.

The Recreation Dept. is wrapping up the fall baseball program.

Library: As liaison to the Library, I let them know what was in the budget and they were perfectly fine with the funds that we allocated to them.

Maslen: The members of the Board had come to discuss that with me earlier and they had hoped that this Town Board would fund them to full capacity this year. I explain to them that it would mean that we would have to impose a tax on the Town outside of the Village because that is where the State law says that fund has to be.

Kilmer: Their position is that they can get through and hope that their special district initiative is successful.

Langlois: We have funded the Library, 100% of our obligation and I intend to vote to do the exact same thing this year. To give them 100% of our share of the total budget. It is a shame that we have to rely upon the Village to give a very tiny amount but I am not willing to saddle people that live outside the Village with paying the Village share of the Library again. I will pay our full share, but I will not vote to continue to pay their share.

Article 78 – Highway Superintendent. I gave you a copy of the State law and it says “that within the limits of appropriations employees such persons” (this is a description of what the Highway Supt. can and cannot do) “has to be necessary to maintain and repair the Town highway and the removal of obstruction caused by snow subject to the approval of the Town Board.” What this is stating is that we control the Highway Supt.'s budget by money. Last year, we told the Highway Superintendent that due to tough financial times and due that we were not going to task his group of employees with as many outside Highway Dept. work i.e. pathways, sewers, water line which private contractors are now doing for the Town and that we were reducing that force to 14 through the budget process. He failed to make those adjustments in his budget. He has now approximately \$10,000 left in his budget line to pay 14 people until December 31st. This is unlawful. I'll not as a Councilman allow the Highway Supt. to control the finances of this Town. So, I contacted the State and the course of action required by this Town Board is to file an Article 78 and put this in front of a judge and let the judge make the final

decision on whether Steve has acted inappropriate or we do not have a case. I am not going to battle any longer whether he has the authority or not. The State law says we have the authority to allocate funds and he has overspent his budget. My position now is to make a Motion to file an Article 78 and have our Attorney Joe Leone manage that.

Kilmer MOVED to file an Article 78 and have our Deputy Town Attorney J. Leone handle it. Seconded by Langlois.

Ceretto: As the residents stated a little while ago, in the last two years we have taken a step backwards by taking Mr. Reiter away from the maintenance things in the Town and because of political reasons the residents are suffering. What I am saying tonight is we need to put the fighting down, put it aside, let's work together. What I saw today is an abstract of almost \$12,000 and this is just the beginning. The taxpayer's are footing the bill for these fights. It is becoming very costly. Lewiston in the past has been a good Town and I want to continue that and bring that back. The only thing for us to do that is...if I was a taxpayer and I was outside of the Board, I would be very upset. You are depending on us to make things happen. To do that we have to work together. Like I said, we have enjoyed many, many successes in the past and I know it can be done again. But first of all, we have to stop this bickering. It is becoming very costly to the taxpayers in these lawsuits. I just want us to do our job and get things done and go back to the way it was couple of years ago and get the things done that the residents want us do. They expect us to do that.

Johnson: We just approved the two attorneys that you hired for \$11,000 and Mr. Evert's report that he gave me shows me that you only have \$4000 in Supervisor's contractual left to pay the \$11,000 bill that you have. So, if you ask me to say can I add that to support you to get your job done with these attorneys, I will do that with you. In the same token, when Steve Reiter came to this table and said I need more money and I have money here and I can get away with this equipment and do things like that. When I talked to other towns and villages around and they can move things around then I think it is crazy for us to sit here and if not let's turn around and give the money. Let's give him the money he needs to finish the rest of the year. We will sit down at budget time and there maybe some alternatives in revenues that we maybe able to "pull" up in the budget process that might help us through this process. I am willing to do that with you. I am willing to say okay, "come on I will help you put some more money in your account to do this, let's do it for Steve." Let's cut this Article 78 out of the picture.

Johnson MOVED to TABLE. Seconded by Ceretto. On the Motion Johnson & Ceretto Yes; Kilmer, Langlois & Maslen Yes. Motion failed 3-2.

Langlois: I talked about this before and explained to people that the Town Board voted 3-2 to reduce the taxes this year to our citizens by \$150,000 because we were no longer going to be doing the extra work on sewers, water, parks etc. In looking at the manpower needed this Board majority decided that we fund 14 people rather than 17 for Highway and Drainage. That was the will of this Board, which needs to be followed. Town Law says that the Highway Dept., the Highway Superintendent hires and fires people but he can only do that in accordance with the budget he has been given by the Town Board. How would it be if a family that you were going to allocate so much for rent, so much for food etc. and one of your family members decided that they were going to spend it all on something else. You would end up the year not having enough money for food or you would be moved out in the street. It is the same thing with the Highway Dept. The Highway Dept. was given so much money to spend. He has overspent it and it is like poking a stick in our eye by coming along and hiring back the same people that were laid off because we suddenly have an urgent need to pickup brush. We hired people to pickup brush, which in my mind is not an emergency and we had to pay these people their health insurance for the month because we called them back. I think this is where we are wasting our money. The Town Board made a decision. We should live by that decision and it appears that the only way we can do it and our lawyers have told us

this is to go with an Article 78 and maybe we can get some cooperation and semblance and stop spending extra money and raising the taxes of the people in this Town.

Maslen: When I took office one of the first things that I learned as a responsible Supervisor was that I was responsible for the financing of this Town regardless of who did the spending and that if things weren't done properly or if we ever over spent what had been allocated as Town Supervisor it was my responsibility to make sure that that didn't happen. When the State auditors came in 2001, this Town Board had taken monies from fund balance and we had moved monies around but basically there were 4 accounts that had been overspent. They made it known to me at that time, that that was not permissible. That regardless of the fact that we had money in our fund balance, that we had a budget and it was our responsibility to stay within that budget. It has not been an easy process in turning those four accounts around. It has taken putting many, many things in effect. It has demanded that we have purchase orders so that we know at all times just what to expect and this money is taken out before it is purchased. It has been a very painful process. Last year, we were faced for the first time in many years with a town tax. This Board was desperate and as many of you know the end result was that we played around the budget and we had session after session. We worked ourselves over. We had people come in and call us names and complain and carry on and everybody wanted that budget raised. But nobody in this Town wants to pay a tax. So, how do you take money that you don't have, put it into a budget for revenues you don't have and not raise a Town tax? We looked at our situation and we looked at each of our funds. All of our funding was pretty much in place. In the "A" fund which is the whole town fund including the Village that funding pretty much is taken care by Modern and CWM. The area of the Town outside of the Village which is called the "B" fund which supports our library, our police force, our highway and our drainage was short approximately \$750,000. We tried everything. We went back and most of our departments were able to squeak out what they needed and they barely did that because they did not want to impose a Town tax. With that and even with the reduction to the library which has been a bone of contention all year long and a reduction in other accounts, we still came up short. Had we given all of the monies that was requested by the Highway Supt. we would have had a sizeable tax. As it was, the 68¢ per 1000 raised a hullabaloo in this Town. The Board decided to cut \$150,000. Now, they cut it from personnel because with the personnel comes the additional worker's compensation, additional liability insurance, you have to provide trucks, retirement fund. You have to do all of those things plus there is an addition of approximately \$10,000 in overtime. Some of which is necessary and some of which is unnecessary. I truly thought that if we worked together, the Highway Dept., the Highway Supt. and the Town Board and we were very, very careful about the rotation of our crews and everything we could squeak by without a layoff. Still in all, we went on that thought process. My other councilmen said it is not going to happen and demanded that we have a layoff. We can't do that. The Town Board cannot demand a layoff. So, I said please let's work together and we were trying. It didn't work because the rotation issue didn't go. Some of the people spent some of their funding that they couldn't of waited. They had certain things done and they went into medical benefits. We got a nicer benefit for them. So, the fact of the matter is now, here we are in October and we don't have enough money till the end of the year.

Ceretto: But, you had money for a golf course, Sandy.

Kilmer: Excuse me John; we had 4 million dollars when you took office too.

Maslen: Gentlemen, this serves as no purpose at this point. So, we are here the first of the year now.... I had a meeting with the Highway Supt., his secretary, myself and our counselor yesterday. We came up with about \$20,000 that he has claimed was for snow removal. As I have explained to this Board, time and time again, snow removal is a requirement and we must fund that. If we under fund it, we have to find the funds from excess revenues and fund it. However, that \$20,000 is not going to pay this payroll until the end of this year. It is just not going to

happen. We've kicked this around all year. We've embarrassed ourselves. We've embarrassed our community. We've embarrassed our superintendent. I think it is time that we had an outsider, someone who knows State law, who knows our laws and makes a determination whether this Board is right or wrong. So, it would be my suggestion that we go ahead with the Article 78 and that we had an outside person decide and it is done and the issue is put to bed forever and a day. That is where the Supervisor is coming from as head of the fiscal responsibility.

Kilmer: The part that frustrates me is John and Mike you enabled him by giving him a ray of hope when I told you in February and March and April.....

Maslen: Mr. Kilmer, it is your turn to speak but I am going to ask that you rise above and you go with what your feeling is and not belittle or not question anyone else. Everyone else has their own feelings about this. Those are their feelings and that is where we should stay with it.

Kilmer: Understood, Sandy and I won't do that but the problem is the fact of the matter was we had a budget and no matter where your position is we must hold all department heads and all elected officials accountable for their budget. To set a precedence to let a department head spend whatever he wants is a bad precedence. I am done.

Langlois: I will call for the question.

On the Motion to file an Article 78 proceedings against Highway Supt. S. Reiter the vote was as follows: Ceretto and Johnson No; Kilmer, Langlois and Maslen Yes. Motion carried 3-2.

Brydges said it was assigned to both of us, Mr. Leone and myself.

Kilmer: Expedite it, please.

Green Space Questionnaire:

Kilmer: I have a concept and I have discussed it with the Attorneys and with other Councilmen and it is a very sensitive issue whether the Town should own green space (the amount that we own) because some of those areas are becoming mature and trees are falling and we are being obligated as the owner of that property to take it. I have personal opinions and there are other opinions of the people that own it. The best way to manage this is to determine the residents that border the green space and said areas like in back of Raymond Drive and we need to produce a questionnaire that says, "Would like to own the green space behind or would you like it to be maintained by the Town?" Because, it is my personal opinion and I would like to relieve the Town of that issue because it is hard to get too and in years to come it will be very costly when rotten trees start falling down on peoples' yards and issues will come about. I understand the opposite side that they are scared that the guy in back of him if he owns half of it is going to clear cut it and it is not going to be green space and that is why I am asking the Board for a questionnaire to get this out to the public and have them answer whether this is a good or bad idea. Not the entire public.

Maslen: Have you looked at the Master Plan? (Yes) Have you seen what the Master Plan requires of green space in this area?

Kilmer: Absolutely. The Master Plan is a living document though and it can be altered by this Board's decision. Again, I am not doing it to eliminate green space. I would like it to stay green space. What I am trying to do is alleviate the Town's responsibility to maintain the green space. I know that I have green space...I know that if a tree falls in my yard, I get my chain saw and cut it up but there are some residents that either are unable to be of physical constraints, their age or they just want the Town to do it. It already started on Raymond Drive with trees hanging out on a ladies house. That is what brought it to my attention. This is just the beginning of what could be a precedent.

Kilmer MOVED to produce a questionnaire that would be sent to the residents that border the green space asking them how they feel about owning the green space in their back yard or leaving it as a town's right-of-way. Seconded by Langlois.

Langlois: I have investigated several of the complaints in this area. I heard both sides of the question but I don't know how representative the two or three people that I talked too are. Mr. Leone lives in that area and we asked him 2-3 months ago to take a look at what would be required if we were to deed this property proportionately to the homeowners. I think he has started to look into this. It is probably a little complicated with resurveying and it would cost some money for the people if that is done. But, many of them may want to do it. Getting the views of the people that live there, I think is a good idea.

Maslen: Have you ever thought of just having a meeting with the people in that area and asking them to come and have a public information meeting rather than the questionnaire? I have to say from some of the conversations that occurred and from the questionnaires that the Recreation Committee has sent out; we don't get as wonderful response. Maybe, it is something we want to think about and get those residents in a public forum to express their opinion. I also think we have to be very sensitive to our environmental and green space needs etc. That maybe another alternative.

Ceretto: I like your suggestion, Sandy. Dan, we send out instead of a questionnaire, a notice to the residents in that area and then have the public information meeting so that they can come and we can listen. Mr. Leone, I have been told that when this property was developed it was in the deed that this would be green space. So, this could be a legal issue that we can't do this. Would you look into this for us before we might have this meeting?

Coulter: In a past case, I remember in a subdivision where they wanted to eliminate something and they found out that they everybody in that subdivision had the rights to that and that if they all didn't sign off, nothing could be done. So, you should look at the legality procedure before you proceed.

Maslen: So, Mr. Kilmer, I think you pretty much have your direction.

Johnson: Being in the real estate business you would think that you would want to protect certain areas and I have talked to a lot of people about this issue because it all stems from The Circle in the Escarpment and why are you giving that away for and etc. One, it could be a liability problem for us and that is definitely a maintenance problem for us to make sure that the land cut but also a lot of people move to Lewiston because they like this green space. If we are going to do it, I think we should have a public hearing. I think that a lot of people have some say on this because it is not just this green space and there are other developments that have green spaces. It would be good to get their opinions. But, I think for future times for development rather than take the green space; I would rather take a recreation fee and make sure that they "jell" out the property to the new developments. I think that is the future that we have to look to for any of the new developments. I would prefer to have a public hearing and let different people including the people from that subdivision and talk about it. I have a lot more people that are against it then for it.

Kilmer: I agree with everyone's recommendation. I think that John brought up the best point. First is it legal. There is no sense in doing anything...if it is legal we will talk about it.

Riverwalk Project: The approval of the preliminary plat. I would like the attorney to tell me exactly what....

Johnson MOVED to enter into an Executive Session to discuss legal issues regarding Riverwalk upon recommendation of the Town Attorney. Seconded by Kilmer. Carried 5-0.

Time: 8:45 p.m.
No action taken.

Motion by Johnson to come out of Executive Session at 9:10 p.m. Seconded by Langlois and carried 5-0.

Motion by Johnson to reconvene the Regular Town Board Meeting. Seconded by Langlois and carried 5-0.

Ceretto MOVED to Table at this time. (No second)

Langlois stated that if you table, we cannot discuss this.

Ceretto: I don't have a problem if you want to table and explain it.

Maslen: No, we are not going to table first and then after we table we do not discuss it.

Kilmer: If he withdraws his table, we can discuss this and then table it at a later time.

Brydges: John, if you move it to the Work Session for a later date, then you can discuss it. If you vote table, you cannot talk about it.

Ceretto MOVED this issue to the Work Session for more information.

Maslen: John wants to table this issue until October 27th, after the Sanborn Historical Society presentation. Do I have a second?

Langlois: We are in a discussion period on Dan's motion at the moment.

Maslen: The table takes precedent.

Langlois: We don't have a seconded to the Table.

Maslen: Do I have a second to the Table? Hearing none, you may now proceed.

Langlois: We had a executive session and it covered some legal issues about this and also I think the Board felt that to give serious consideration to everyone of the comments that were made by the various people, pro and con. A lot of very good points were made. We had studied this issue very carefully, each one of us and again there was some new information added and for that reason I think that the feeling of the Board was that we need to consider these a little further and talk to our attorneys and so maybe someone else would like to say the same thing before we move to table.

Ceretto MOVED to table to the next Work Session on October 27th. Seconded by Langlois. Carried 5-0.

LANGLOIS:

Seniors: The seniors at the Senior Center did not want to have a candidate's night. Sanborn Seniors did have one.

Joseph Davis Park: Three weeks ago, I sent you all information on the public hearing on the J. Davis Environmental Impact Statement was going to be held. I was out of town. The decisions are the same as I reported before that the Audubon Society will have a birds of prey center and the area that was the golf course before will be converted to walking tours. The river area will continue to be improved and

maintained. It is possible that other things will be done i.e. outdoor ice-skating rink. After a 30-day period they will finally after 2- _ years issue the report on the park.

Golf Course: We are still working with the DEC and the Corp of Engineers and the final maps are now in place and they are going to be examined hopefully next week and then we can move forward to the EIS. It has been one delay after another and is moving ahead.

RAB Report (LOOW): I am a member of the committee that is examining situation regarding health and safety. That was disbanded and a new group was formed and I am also a part of that. This groups was active in looking at Lewiston Porter school property and authorization was given to conduct additional studies there. The report that was given last week that had analyzed for 40 different chemicals that could be possible problems. They found none of these on the sampling points that they put in. They did find arsenic at most all of the sampling points, which you find in WNY. There was also some points where there were some organic materials but in general "don't worry Lew-Port is a safe place to send your kids".

CERETTO:

WPCC:

Lockhart: The first item is the Sewer Use Contract for the four municipalities that is serviced by the treatment plant. This contract has been out for review and I would like the Board to authorize the Supervisor to enter into the agreement for 2004.

Ceretto MOVED that the Supervisor enter into an agreement for 2004 for the Sewer Use Contract. Seconded by Johnson and carried 5-0.

Lockhart: I would like to have a public hearing to review items on the Sewer Use Code. I have a draft from Atty. Leone for your review and I would like that for your consideration at the next work session and schedule a public hearing.

Ceretto MOVED to hold a Public Hearing on Oct. 27th at 6:30 p.m. Seconded by Langlois.

Leone: Is that going to be enough time? It is not complex but we are amending a local law so we have to publish it.

Ceretto AMENDED his motion to hold the Public Hearing on November 10, 2003 at 6:45 p.m. Seconded by Kilmer and carried 5-0.

Nextel: Co-location modification approval. It has gone to the Towers and Environmental Committees. Mr. Leone is working on the existing law for modification. We have been successful with bringing in new revenue into the Town with renewal fees. This applicant has already paid.

Ceretto MOVED that we approval of the Neg. Dec. on the Nextel application. Seconded by Langlois and carried 5-0.

Ceretto MOVED for the Nextel Co-location Modification as presented. Seconded by Langlois and carried 5-0.

Recycling: Mr. Leone is working on a modification of our current recycling law. The committee wants to review this and I will bring in back for the November meeting.

JOHNSON:

Homeland Security Funds: I would like this Board to go on record and compose a letter to the Governor along with a copy to Congresswoman Slaughter, County Legislature that it is to our large disappointment that none of the monies showed up in Niagara County let alone Lewiston where I believe that we and Niagara Falls are probably biggest at stake right now. I would glad to put together a letter together

with the attorneys and have you review it at the October 27th meeting. Please give me any ideas that you might have.

Maslen: I received a call from Congresswoman Slaughter's office that the mayor had sent a very strong letter regarding that this area received no funding. She has agreed to sit down and talk with the fire departments, our police chief, the mayor and us the first part of November.

Johnson: Gov. Pataki got 70 million dollars from the federal government for homeland security. They need to look at the Power Authority and the three bridges. We have large numbers of State Police and Border Patrol personnel here for a reason. I think that a letter would be in order expressing our disappointment.

Maslen: When I went to Washington on behalf of the 914th, we had a meeting with the Governor's Council and as a result of that another HazMat truck was transferred from the City of Buffalo to Niagara County with the idea that it would come to the HazMat team that is already in place. Mr. Volkosh instead of giving it to the established HazMat team in Lewiston gave the truck that was allocated to us to the City of Niagara Falls. We might want to include that in our letter and copy to Niagara County.

Training: The Fire Companies have a budget that says training. When we did the one training program at Niagara Univ. they were not able to get a training trainer to come in towards the end of this year to do this program. So, now with the technology that they are doing with the teleconferencing and programs they needed a power point, so we would like to do through training that would be used throughout the Town for not only the fire companies but the HazMat also. When they tried to do the power point presentation they did not have the right equipment.

Johnson MOVED to take up to \$1500 from the Training Budget from the Fire Contracts to be used for this equipment. Seconded by Ceretto.

Johnson: This money is part of the training funds that are set-aside in the contract.

Evert: There is language in the contract that spells out the need for training but it never materialized itself and was a budgeted line item that I was ever aware of.

Johnson: So, there wasn't a line item?

Evert: Not before I came along or since.

Maslen: So, in all of that money that we have allocated, do we have a surplus in our fire....

Evert: You have money in the fire fund balance that would cover this if the Board would choose to allocate that amount of money.

Johnson: I would like to do that because we were suppose to set it aside and I will talk to you before that goes out. That didn't go out yet. Did Gene put that out for special district taxes yet?

Evert: No, the budget is not approved yet.

Johnson: But, for this purpose you want to do that this year.

Kilmer asked if we can tell them how to spend contractual money, can we?

Maslen: They have received their money in a lump sum by the first of March as we are required to give all of the fire departments. There is a fund balance available from those funds. What is being proposed here is that we take monies from the present fund balance for the fire companies unless we using any of that as appropriations for this year's budget.

Evert: There is some, but there is enough to cover the \$1500. the fund balance will sustain that amount of money.

Maslen: Do we have actual account numbers that we can work with?

Evert: You identified the fund. I can give the Clerk the number.

Maslen: It needs to be in the record as to the fact that it is coming out of the fire protection....

Johnson: That is my motion

Kilmer: You are saying that in the past, the Town Board has budgeted so much money and we have paid the bill to the four fire departments and there was more in that account then needed to pay those bills and that is where you want that money to come from?

Johnson: No, that is not true.