

REGULAR TOWN BOARD MEETING November 28, 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; Police Chief Winkley; Rec. Dir. Dashineau; Deputy Sup. Elgin & Town Clerk Brandon. 18 residents & 3 press reps.

The Supervisor opened the regular meeting at 7:00 p.m. The Pledge of Allegiance was recited followed by a moment of silent reflection.

AGENDA:

Langlois: Add executive session at the end of the regular meeting to discuss changes in the Town policy manual.

Langlois MOVED to approve the Agenda with the addition. Seconded by Johnson and carried 5-0.

MINUTES:

Johnson MOVED to approve the following minutes: 10-13-05 Worksession; 10-20-05 Budget Worksession; 10-24-05 Joint Police Mtg.; 10-24-05 P.H. Oak Run Estates; 10-24-05 R.T.B.M.; 11-10-05 P.H. 2006 Budget and 11-14-05 Worksession. Seconded by Langlois and carried 5-0.

POST AUDITS:

Johnson MOVED to pay the following invoices: Home Depot \$1,995.55; Office Max-(HSBC Business Solutions) \$ 229.92; Office Max Credit Plan – (HSBC Business Solutions) \$ 79.10; Radio Shack \$69.99 and Sam’s Club \$500.99. Seconded by Kilmer and carried 5-0.

OLD BUSINESS: None.

CORRESPONDENCE:

Item #1: A letter from Rose Mary Warren of 5842 Griffin St., Sanborn asking what is the status of the Old Creek Developers/Golf Course. She would like to know where does the project stand. When will the Town taxpayers recoup the over \$100,000 spent on engineering?

Item #2: A request from the Upper Mt. Fire Co. to add the following individuals to its active roster. Chris Dangelis, Anthony Fortunato, Jordan Collins and Patrick Bradley.

Johnson MOVED to accept the additions to the roster of the Upper Mt. Fire Co. Seconded by Langlois and carried 5-0.

Item #3: A request from Jack Lindelow of LMK Realty Associates asking for approval of a new name of our street that is presently being installed east of Northridge Drive. We have chosen the name **Legacy Drive**. Please find an attached memo prepared by Patrick Martin giving his approval.

Langlois MOVED to change the name as requested to Legacy Drive and note that Mr. Martin and the Fire Bureau have approved. Seconded Johnson. Carried 5-0.

NEWLIN:

Legal: We were approached late today by counsel representing Old Creek Development. In a brief meeting before this meeting which included Attorneys Leone and Boniello and upon their advice which does pertain to the possible sale of

land currently owned by the Town it was recommended that we enter a brief executive session right now.

Johnson MOVED to enter into an executive session to discuss the golf course/Old Creek Development. Seconded by Newlin. Carried 5-0.

Time: 7:25 p.m.

Executive Session:

Present: Sup. Newlin; Council Members Ceretto, Johnson, Kilmer & Langlois; Attorneys Leone & Boniello; Eng. Lannon and Deputy Sup. Elgin.

Discussion on proposal by Oak Creek Development received today on land owned by the Town of Lewiston. No action taken.*

Motion to close executive session by Johnson and seconded by Kilmer. Carried 5-0. Adjourned at 7:35 p.m. *Minutes taken by Boniello.

Motion to come out of executive session by Kilmer, Seconded by Johnson and carried 5-0.

Newlin: The Board in executive session discussed the principal sale of public land. This has to do with the proposed land that was being considered by this Town for a municipal golf course. I have been actively pursuing the sale of this land so that we could seek private investment because I think that is really a better fit for a golf course. We have seen a significant amount of progress on that front and the advantages to the Town are clear. It relieves the Town of a burden in the future of maintaining a project that could be 200 or more acres for which the Town would be responsible for paying that upkeep. It would also by seeking private investments we can also look forward to the land coming back on the tax rolls. Lewiston has quite bit of its land already off of the tax rolls and by encouraging private investment and development the land will be coming back to the tax rolls. Frankly, I think private interests can fund this course to a much higher figure that could the Town of Lewiston. I think we will wind up with a much better golf course that will be an asset to this Town and its already burgeoning tourist economy. Under review of counsel, I will make the following motion.

Newlin MOVED that the Town Board of the Town of Lewiston authorize the Supervisor to pursue negotiations for the sale of 10.88 acres of land (part of Lewistontowne Park) to Old Creek Development as represented by Michael Dowd with purchase price to be \$147,000. The money to be used to pay for the value of the land and recoup the vast majority if not all of the fees the Town has extended by a prior Board for engineering and other expenses. Seconded by Kilmer.

Boniello: There should be restrictions added to the deed as the Supervisor and the Council deem appropriate.

Newlin amended his MOTION to include restrictions in the deed as deemed appropriate. Seconded by Langlois. On the Motion and Amendment, carried 5-0.

Newlin MOVED that a Public Hearing be held on Dec. 12th at 6:30 p.m. for the purpose of selling this public land. Seconded by Kilmer.

Langlois: We should make sure that letters are sent to the residents bounding the property within 500'.

On the MOTION, carried 5-0.

Leone asked for a brief executive session at the end of the meeting to discuss possible litigation. With respect to the capital improvement projects, Contracts 11 &

12, I have not executed those documents as of yet. I looked at the insurance binders that were sent in and in one respect under bodily injuries we require 2 M for each occurrence or aggregate and the amount put in was 1M. I contacted the company and received a letter from the insurance agency saying the requested increase in general liability for each occurrence is not a customarily rule for the majority of insurance companies. Insurance companies usually do not offer this limit when it can increase the umbrella policy to reflect any required increases that are necessary to fulfill a contract. I would like the Board to allow me to take the lower limit but seek an increase in the umbrella policy to make sure that we are covered.

Johnson MOVED that the Attorney be permitted to seek an increase in the umbrella policy for Contracts 11 & 12 and take the lower limit of 1M for each occurrence or aggregate body injuries. Seconded by Kilmer and carried 5-0.

2006 Budget: The budget was adopted on Nov. 17th unanimously by the Board. The 2006 budget has been reduced by ½ M and the Town tax has been eliminated. We are fully funding snow removal, leaf pickup and staff levels at all the major departments (water, sewer, highway) are being maintained at current levels that will give residents the same high level service that they come to expect here in Lewiston. NYPA initial payment monies (signing bonus) were not included within that budget and when that money which is expected before the end of the year will be “gravy” to the Town’s revenues. Also, the baseball program will not be privatized. I would like to personally thank Councilmen Kilmer, Johnson & Langlois for their help on the budget.

County Concerns: The other Supervisors and I are Commissioners on the County Sewer Districts and County Water District. It has become a concern to the Supervisors and their Town Boards that the County Legislature seems to be seeking some sort of control or direct authority over these independent districts that they had not exerted in the past. The County Sewer District only serves 6 towns. I think it is appropriate that the 6 Town Supervisors make the decisions of what exactly happens in those districts. That district has been very well run and very efficient. I think it has provided a high level of service at a very reasonable cost. Unfortunately, we now see the County Legislature trying to seek control over that. You would have legislators from Niagara Falls, No. Tonawanda and other towns who are not served by that district nor pay any monies toward those districts trying to seek control over that. I think that is something as a Town has to protect our rights and the same allegedly maybe happening in the water district. I will provide the Board with more information at our next meeting.

Kilmer: Do you need a letter of support informing the County telling them to keep their hands off what is not theirs? The County has not put a dime into that system.

Newlin: I with Mr. Roberson our attorney in the Sewer District regarding this and he informed me he would rather wait until the next meeting and see what the County does this evening at their meeting. The County did put some money up to begin with to create it 30-40 years ago. But, that money has been paid back by the Towns affected and it is taxation without representation. Why we should let some legislators outside of the district control that makes no sense.

Police Contract: We did ratify the agreement with the Police Teamsters Union.

Kilmer asked if you have gained any ground regarding the Water Dept. employees which can be settled outside of the Highway Dept.

Newlin said our advisor Mr. Richardson is discussing that now with the Teamster in the Water and Highway Departments.

Kilmer: The employees in the Water Dept. seemed to be happy with the changes that were made in their contract. It seems they are being held up by the Highway Dept.

Newlin: I believe that the teamsters (the large organization) have an interest in keeping the two together.

CERETTO:

Library: We had a lengthy budget discussion on the library concerns last week. With the new Board coming on and with this \$147,000 you could find a portion of it to go to the Library because they could use some help. It is an option that you have.

Golf Course Cmte. I was appointed the liaison and I am glad that we are finishing this up before I leave. There is enough credit for all us to share in this golf course as far as being privatized. I look at it as being another premier destination in Lewiston. I look forward to what the new Board is going to accomplish for Lewiston.

JOHNSON:

Senior Center: Special thanks for the invitation to attend the Thanksgiving luncheon. It was great.

Fire Bureau: Meeting on December 15th.

Engineer:

Lannon: We met today on Contracts 11 & 12. The contractor on the forced main Contract 12, I & I are preparing to start on Monday. On Contract 11, it was suggested it would be possible to start the project perhaps in March and not tear up that subdivision during the winter. We want to discuss this concept with the Water Supt., the Town Board and Mr. Reiter.

Langlois: I spoke with Mr. Nablo and Mr. Britton and it just doesn't seem to make any sense to start this now and tear up driveways etc. They will not be able to spread the frozen dirt. I would recommend delaying the contract until appropriate time in the spring (March).

Kilmer: I agree that construction in the spring is a better idea. But, are they going to hold the price?

Lannon: That is a point that we want verified. We believe that they will and will request it of them but we didn't want to do this until we talked with the Board. We will request that they submit that in writing and that they would start March 1st and hold the price.

Northridge Drive:

Johnson: Have you had some discussions on the street going thru to Scovell, Mr. Lannon?

Lannon: Yes, we have.

Newlin: I will be meeting with the concerned residents this Thursday.

Langlois: I too received some calls and I did check and these people were notified of the Planning Bd. meeting which approved this. That was the time that they should of brought their concerns up. I think it is a little late and having fire access is something that cannot or should not be changed. If there is a need for some additional signage that would protect the area better at the intersections, we should look at that.

Kilmer: Regarding the other water project, if in fact they agree to hold the prices and they are not going to do it until spring the Clerk's office needs to send a letter to those residents affected. It would be to their benefit to wait. We have to let them know that the water lines are coming in March and then the roads will be paved after that.

Johnson asked if the work has been completed on Scovell Drive with Yarussi where they had a water break.

Lannon: That was repaired by the Town. I don't know if they had agreed to get Yarussi to restore it. I will check it out. If it was separate from the water main break that has been done.

LANGLOIS:

Recreation: We discussed the budget and putting in a girls' softball field and its location. It is very much needed. With Kiwanis Park we had to go and get a different type of bid and hope to get it done by the end of the year. Mr. Ron LaDuca is finishing 18 years with the committee.

Langlois MOVED that a proclamation be presented to Mr. LaDuca on his many years of years of service. Seconded by Johnson and carried 5-0.

WPCC: You have the Advisory Board minutes from Mr. Lockhart. At the last meeting they recommended unanimously to work out an agreement with CWM where the water that now goes in massive quantity all at once to the river be secondarily treated at the plant and then put into the river at a slower rate and reducing the shock to the river. The additional benefit is it would get an additional treatment thru the Town treatment works. We would get probably get about \$100,000 in revenue for the plant which would allow us not to have to increase the sewer rates for a while longer. I think it is a strong win-win situation. The only negative would be someone saying "why are you helping out CWM?" We are not opposed to industry and I think the advantages that I just mentioned are so overwhelming we would be foolish not approve that. I checked with CWM a few weeks ago and they are still willing to pay us for the treatment that goes thru the plant. I guess we should go thru with that. The paper work involved on that was that we had our previous engineering firm work that out and they went thru various detailed studies of what we need to do. The other part of that is we would then be able to take liquids from St. Mary's Hospital and some other places that we now can't do because we don't have this permit. Mr. Lannon has checked and he has been able to recoup the study. Do we need to do some additional work done, Mr. Lannon?

Lannon: I have shared a copy with Mr. Lockhart. We have the hard copy which is 3/4" thick. I have made the same request to get it electronically. Then if it is the Board's desire, we could finish that, presuming we have the electronic copy without much effort.

Langlois: What would it cost to finish the study? I was told that they finished it but we did not get it.

Lannon: I would hate to make a guess without having a closer look at it.

Langlois: We allocated about \$10,000 for it and it was probably all spent. We are talking about a modest amount to finish it. Do we need a motion to finish that study?

Newlin: Mr. Lockhart and I spoke about this briefly. From your perspective what are you seeking to get an approval of this? What kind of authorization? Do you need each respective Board to make a motion on the support of this? What do you think has to be done if the Board decides to go in that direction?

Lockhart: If we go in this direction the recommendation from the Sewer Advisory Board is just that. It is advisory in nature and they would like to see this as a revenue source. It also gives a second look. By the sewer use agreement the onus is actually on the Town of Lewiston Board for any expenditures and anything that takes place with the treatment plant. You are the owner of the plant so it is your call. If you want to accept this as revenue source we need to put a pretreatment program in place to accept that. If you do not want to as a revenue source I still

need to see some other avenues for some of these bills that are coming in that are subject to categorical pretreatment standards which are part of the regulations. The hospital, one of the new ones that have come out since is dental wastes. They are looking at amalgam and things like that coming out of dental offices. We are looking at separation there. We had to come up with some mechanism for allowing or getting those flows under control. The main thing is we are looking at revenue sources for the treatment plant so we can do infrastructure upgrades and offset any possible rate increases in the future.

Newlin: This is one of the rare circumstances where I disagree with Mr. Langlois. Personally, I do not think the Town should be pursuing this and I don't mean to go into a debate about this now because we have covered this territory before and I do appreciate the fact that the sewer district is under some revenue pressures although I do think the implementation of the badger meters by the prior board has helped secure at least a good portion of financial future of that district. I hesitate to expose any part of the plant that serves the Town of Lewiston and its' citizens to flows that are coming from CWM. Those are my hesitations. It is a honest disagree and Mr. Langlois is correct when he observed that the other members of the Advisory Board representing the Towns of Lewiston and Porter and the Villages of Youngstown and Lewiston that they didn't agree with my perspective, so I am only reflecting my own personalI will be voting no if the motion is made.

Kilmer: There are actually two issues you can vote on. #1, Mr. Lockhart brought up the issue that we have to finish the study regardless so we can take the flows from dental and medical offices. So, the study needs to be completed regardless, right?

Lockhart: I don't obviously care. I would use that as a tool for other things. If we don't complete the study you just have to put some other mechanism in place.

Kilmer: Aren't there some federal regulationsin order to accept those flows in the future we are going to have to this permit in place. Or some kind of permit in place.

Lockhart: Yes.

Kilmer: The other issue is back when you brought this up, you asked for the \$10,000. I immediately called CWM and asked what kind of leach agent they would send to us. They have these retention ponds and actually it is the same water they are releasing to the river right now. What happens is they have to retain that water in these detention ponds and it is actually cleaner (some say) to meet the higher standards then that what you put in the river. Is that correct? What I am saying is that standard...do they have to meet that ...they have sent fluid?

Lockhart: Their discharge limit is much stricter than what my dischargethey go through much more intensive qualifications for a discharge. Our discharge from the treatment plant is a continuous basis. From an industrial discharge point, this is almost an ideal situation with each discharge has analytical data supporting what is being discharged. So, you know what is in that discharge and what is going out. Most of the pretreatment programs that deal with industries in the various cities in the larger treatment plants...you are lucky if you test an industry once or twice a year. Then you are relying on that industry to follow through. Each discharge would be tested and that is why I feel very comfortable in testing this.

Kilmer: The fluid you are beginning to treat would actually come to your plant is cleaner than the water that we are discharging now or more prepared for the river.

Lockhart: I would rather accept this than some of the fluids from our current customers.

Kilmer: I want to make it clear publicly why I am supporting this. I feel that although there are some things that we have to watch CWM for, this is not one of them. They discharge into the river now.

Johnson: We have already spent the money on the engineering study so far. How much more do you have to do?

Lockhart: The pretreatment program is in a draft form. What I scanned through quickly is 95% completed. The process would be that we would complete the pretreatment study and go back & forth with that and send it to DEC for approval because it is a program that has to meet certain standards. Get their approval of it and it would come back to the Town Board for adoption.

Johnson stated that we have already spent some of the money to begin with and if you get approved by the DEC, do you have to take this? You can still say we are not going to take it.

Lockhart: We control what comes into the treatment plant.

Johnson said that all you want to do is finish the study. Then if we elect not to take the leachate from CWM and at that time decide we don't want to do it. You said that the Village of Youngstown and the Town of Porter both agreed to do this.

Newlin said that their representatives agreed to do this, not their Boards.

Johnson: I would prefer to hear from their Boards. Not just the liaisons. I am okay with finishing the study because we have already spent some money to complete it, but I will defer to the comments about taking it in until we decide what we are going to do.

Langlois MOVED to allow Mr. Lannon to complete the study and allocate up to \$2000 if necessary to complete the study. Seconded by Kilmer.

Lockhart stated that the original resolution was to not exceed \$10,000 of which we have to date only spent \$5500.

Langlois MOVED to remove the allocation of \$2000 for completion of the study. Seconded by Kilmer. On the Motion, Ceretto No; Johnson Yes; Kilmer Yes; Langlois Yes; and Newlin No. Motion carried 3-2.

Langlois MOVED to begin negotiations with CWM on the amount that the Town would be paid for taking their discharge once the Town of Lewiston gets the permits in place to do this.

Langlois: It is amazing to me that we have somebody who is not willing to send something to the river after we secondly treat it and we put a control flow to the river instead of millions of gallons at one time. It is hard for me to understand that anybody cannot see the benefit of this.

Seconded by Kilmer:

Kilmer: Who will be negotiating, Mr. Newlin or Mr. Lockhart?

Langlois suggested that Mr. Lockhart who has had contact with them to come up with a proposal to be presented to the Board.

The attorneys concurred that Mr. Lockhart can negotiate with the Supervisor signing.

Johnson: Before I would vote on this motion, I would like to hear from the entire Boards on this. I don't mind completing the studies since we have already spent \$5500 but I am not going to negotiate with anybody until the study is done.

Lockhart said they (DEC) would not turn us down and it would go back and forth until it is in the right form.

Ceretto MOVED to TABLE the motion. Seconded by Johnson.

Langlois: You are tabling...he is only going to get information.

On the Motion to table Ceretto Yes; Johnson Yes; Kilmer No; Langlois No and Newlin Yes. Motion passed 3-2 to Table.

Newlin: Mr. Langlois asks the questions as why to table and for mecasting a question upon this proceeding is for better or worse as CWM is the only hazardous waste facility that still remains in the northeast. I guess a question we should consider is why that is the case. It is obvious to me that CWM wants this very much.

Lannon asked if he were to finish the study. (Yes)

Casino Money:

Langlois said we talked about sending a letter to Sen. Maziarz and Assemblywoman DelMonte asking that St. Mary's Hospital is included in cash disbursements to hospitals. Memorial Hospital has been included in that distribution. We have to remember that St. Mary's Hospital is also a major hospital in the area. The letter that I gave to you says that the majority of the patients that go to St. Mary's are from Niagara Falls. Most of these are only partial payments or no payments are subsidized by the hospital. They also run a clinic in Niagara Falls for the poor people and they subsidize it in the amount of \$397,000 annually. I think very seriously that there should be a certain amount of money to keep the hospital solvent and continue to service Niagara Falls and maybe expand the clinic. The letter that I proposed for the Board to consider is asking that they get \$150,000 per year to support the growth and expansion of the new health center. I don't know if it is too late or not because they have done some negotiations but I do not think it has been signed yet. Maybe they can see the logic of what we are proposing.

Langlois MOVED authorize the Town Board to send the subject letter as discussed. Seconded by Kilmer.

Johnson: This agreement between Sen. Maziarz and Assemblywoman DelMonte has been holding up a tremendous amount of things going on in Niagara Falls because of the County's intervention to try and stop something. I cannot speak to this motion and I would like to make an amendment to send a letter to the representatives requesting the amount of the \$150,000 but for it to come from the State's portion of the casino money and not from Niagara Falls. The county either sends it to the State or sends it to the county as well but what has been "jelled" already in Niagara Falls for projects and this is an after-the-fact type of thing. I will support you if you change your motion to read that we want "them" to take \$150,000 from their (State) portion (75%) and/or the portion of the overage that the county intervened with their portion but no more than adding more breakdown to it. I think St. Mary's is well deserving of it and I think the State should come across with the money. I think the representative should start shaking down some of that 75% the State is getting. If you want to say the county's portion and/or the State's portion, I would say that is fine. This thing is pretty much cut and dry now.

Langlois: I think by sending this letter as it is, Maziarz and DelMonte can determine whether this has merit and whether to include it in the negotiations on sharing the money between the County and the City of Niagara Falls. I think they should be able to do that between the two of them. If we push this off to the State and their 75% you can kiss it goodbye. Nobody is going to get any more money from the State and you know that. That is going to kill it. I am willing to let them discuss whether they think it is worthwhile or not. If can't see clear the benefit of this because of what is in the letter, it benefits Niagara Falls and the areas here so be

it. But, let them see if they can come up with a small amount that we have here and help the people in Niagara Falls. If they decide not to take it from the county or the city portion okay and at least we have asked.

Kilmer: I do agree with Mr. Langlois on the letter but if you are looking for a different funding....all we are going to do is ask the City of Niagara Falls to give up \$150,000 on infrastructure. Maybe what we need to ask for is part of the allocation that they are going to give to the hospital. Make it a generic hospital location divided between Memorial and St. Mary's because they are giving "X" amount of money to Memorial so we need a piece of that pie. Maybe not an increased portion of what is going to the Mayor and the infrastructure problem.

Johnson: The County is going to get a portion of whatever the overage of slot machine money is and let the county pay. They are the ones that jumped on the bandwagon at the end. Rather than go back and try to negotiate a whole new deal with them right now. I think that there is nothing wrong with the Town of Lewiston speaking out on behalf of Mt. St. Mary's. But to put a cog in the wheel now and stop the process that has been going on for over a year is ridiculous.

Langlois: I am asking them to consider this and they don't have to do anything.

Ceretto: I was excited when I read in the paper that Sen. Maziarz and Assemblywoman DeMonte came to a compromise and settled this agreement. Finally the money from the casino can start flowing and a lot of good things will happen. It took an agreement of compromising and I commend them for doing that. I will support you Mr. Langlois, because you are asking them to consider and it possible that they were not thinking about St. Mary's but the hospital desires some of these funds. Let them decide.

Newlin: I have spoken with some of the trustees of St. Mary's and they make a very clear and convincing case that the hospital does a great deal of service for residents of the City of Niagara Falls. I am willing to let them decide.

On the Motion, carried 5-0.

Policy Manual: We are trying because of the union negotiations there are some pluses and minuses and we have always said that our non union people should be treated as closely as possible....certainly no less beneficial than we give to our union contracts. Several things have been changed. In some of our union contracts we are now calling for partial payment for retiree health insurance and we need to consider the same thing for our non union employees. We will discuss this in executive session.

KILMER:

Liaison Report:

Economic Development: I am excited about the new hotel under construction in the Village and I believe it will be the birth of Center Street. Christmas walk is this weekend.

Environmental Commission:

Kilmer MOVED to pay members of the Environmental Commission for their attendance at the 2005 meetings in the amount of \$2200. Seconded by Johnson.

Langlois asked that any other committees that are paid that they provide a letter with the dates and attendance be submitted.

Kilmer read the names and amounts to be paid. (Letter on file)

On the Motion, carried 5-0.

Langlois MOVED that upon receipt from the Chairman of those committees that receive a stipend stating attendance and amount to be paid be approved. Seconded by Newlin and carried. Carried 5-0.

Purchase of Circle Park: We had a survey sent to all of the residents of that area. 50% of the people returned the survey. We had 155 yeses and 59 noes. Under the negative side, their concerns were don't spend the money or the area is surrounded by homes with 2 entrance ways. It is something necessary up there. Our building inspector noted that there are more pieces of property becoming available by the contractor who is building up there. A total of 4 lots in the 2nd phase are to be given to the Town for a park. This would be in the Moll subdivision. My concern was why did we place a park at the end of Bronson Drive (Niagara Frontier Bible Church property). It has had very little use because of the access and the road. What good is a park if you cannot use it? We do not have that environment in that large subdivision. I am willing to hold off on asking for the purchase of the Circle Park until I look at where the land is. Regarding the playground equipment, the church contacted me and leaving equipment that is more than two or three years old becomes a liability issue for their insurance. The lease is for a \$1 per year and we can leave whenever we choose.

FOIL Request: I have asked for some documents from our Highway Supt. which I legally foiled for. He is reluctant to give them to me. I don't know what this Board wants me to do....do you want me to contract Mr. Freeman and have the State come down on the Town. I want the documents. Either he gives them to me by the end of week.....

Ceretto stated he had spoken with Mr. Reiter and he is willing to give the FOIL request if the Board requests it. He feels more comfortable if it is a Board's request rather than one member of the Board requesting it. If the Board would like this to come to the Board he is willing to provide it.

Kilmer: Let me first correct Mr. Reiter. Mr. Reiter is in no position to give me an ultimatum. The lawyers wrote him a clear document that states any board member has the right to request town documents that are produced on town paper, with town computers, with town copies. I am simply trying to do a study on some construction projects. All he is doing is being abstinent. I want the documents and I do not need Board approval to get documents. Neither does anyone in this audience who can foil for those documents. It is public documents.

Ceretto MOVED that Supt. Reiter provide the FOIL request to the entire Town Board. Seconded by Johnson.

Kilmer said you are setting a thing that anytime one of us asked for something; he is going to come back and say I need a board motion.

Newlin: I agree with Mr. Kilmer. One person can ask for FOIL and any citizen can also do that. I don't think this motion contradicts the intent of what you are going after either.

Kilmer: Yes, it does. What you telling me is that I have to get permission.

Johnson said that in the motion you could say that any councilman can ask for this and the Town Board is requesting it now.

Kilmer: You don't understand what you are doing to yourself. You are putting yourself in a compromise position.

Brandon explained the procedure when filing a FOIL request. We are required by law to respond to a request. Anybody can make a FOIL request and if there is a reason why the information is not given, that individual has the right to go to Mr. Freeman.

Newlin: Mr. Kilmer, if you want to go that route.....

Kilmer: I am surprised that you are going to make a motion that is requiring me ...that the Highway Supt. has leverage over a Town Board and so if you ask for something next week he is going say get the Board to agree.

Newlin: The law is clear that FOIL must be answerable.

Kilmer asked why are you making me go through that?

Newlin: Mr. Ceretto's motion is that the entire Board is interested in seeing these documents.

Kilmer: So, the entire Board wants to see what I am doing.

Langlois said that when you get the study done, I would like to see the results. The clerk's comments that it should have been responded to within 5 days because he not is only a citizen but a board member. I think we are setting a precedent where anybody could "kiss" us off by getting the Board to do it. The lawyers sent a letter to him saying he had to do it. Why are we here voting on this?

Newlin said he thinks that Mr. Ceretto is also expressing his interest as a board member to see the same documents and the labor sheets.

On the Motion: Ceretto Yes; Johnson Yes; Kilmer No; Langlois No; and Newlin Yes. Motion carried 3-2.

Newlin: Mr. Kilmer, if you don't feel that the FOIL request has been responded in an efficient or timely manner, as you would as a private citizen not on this Board.

Langlois MOVED to go into Executive Session to discuss matters of personnel regarding the Town policy manual and also pending litigation. Seconded by Johnson. Motion carried 5-0.

Time: 8:40 p.m.

Executive Session: Present: Sup. Newlin; Council Members Ceretto, Johnson, Kilmer & Langlois; Deputy Sup. Elgin; Tn. Atty. Leone & Deputy Tn. Atty. Boniello and Councilman-Elect Edwards.

Discussion of personnel manual and Highway Dept. accident. No action taken.*

Motion to adjourn by mutual consent.

*Minutes taken by Boniello.

Respectfully submitted and transcribe by:

Carol J. Brandon
Town Clerk