

**Town Board Meeting**

**November 26, 2007**

**7:00 p.m.**

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Boniello; Eng. Lannon; Adm./Op. Lockhart; Finance Officer DiRamio; Police Chief Salada and Town Clerk Brandon. 3 press reps and 4 residents.

The Supervisor opened the meeting at 7:10 p.m. and introduced Sandra Hayes-Mies of the LNRRCC.

Ms. Hayes-Mies thanked the Board for their investment in the Chamber. We have had a great year and I have for each of you a written report of our work of this past year. Membership is at an all time high. Of our original budget of \$415,000 only 19% of that comes from the public sector. We are growing on our own and I think it is a good balance between the public and private sector in a great partnership. The other 81% of our income comes from our health insurance, marketing and revenues that are generated. In your packets are the results of our public relations campaign that was implemented this year and hope to continue it into 2008. We received a grant through Sen. Maziarz to hire a communications firm for this. Our festivals have shown a market increase in the number of attendees. All of our attractions, restaurants and shops have indicated that this was a banner year. Your investment in the Chamber has had a really positive economic impact on the community. Thank you for your investment and it is greatly appreciated.

Newlin stated that we know of the fine work that is being done and we thank you. Niagara on the Lake has indicated that they had the worst summer in terms of tourism and by contrast we have had the best summer. It means we have laid a good groundwork here to take advantage of the economy which is bringing more Canadian dollars for shopping etc. Lewiston is a step ahead of some of our neighbors.

Ms. Hayes-Mies said that next year the public relation firm is planning to get into the Canadian market.

Palmer: I have the privilege of serving as the liaison to the Chamber and we in this community are thankful to have such a dedicated group of people who get together. Not only are they concerned for their own businesses but also the well being of the Lewiston area. I have learned more from these meetings than I have read in papers etc. So I thank you for the fine work that you do.

The Pledge of Allegiance was recited followed by a moment of silent reflection.

At this time, no resident wished to speak before the Board.

**AGENDA:**

Brandon asked that the minutes of 11/15/07 Budget Worksession be removed from consideration at this time.

Bax asked for an executive session on a legal issue. Approval of the 2008 Sewer Use Contract, Resolution for a shared municipal services grant (WPCC) and a CAC announcement.

Johnson added a proclamation for Neil Nolf to be presented on Dec. 27<sup>th</sup>.

Edwards: Move the awarding of contract for Contract 15 Water System Improvements to the executive session.

**Johnson MOVED for the amendments as presented to the Agenda. Seconded by Bax and carried 5-0.**

**MINUTES:**

**Palmer MOVED for approval of the minutes of the 10/15/07 P.H. Parking Fees/Worksession; 10/22/07 RTBM; 11/07007 P.H. Preliminary Budget/Budget**

**Session and 11/15/07 Jt. T/V Meeting/Police. Seconded by Johnson and carried 5-0.**

POST AUDITS:

**Edwards MOVED for payment to Home Depot \$141.42; Office Max-(HSBC Business Solutions) \$406.84; Office Max Inc. \$137.09 and Sam's Club \$367.59. Seconded by Johnson and carried 5-0.**

OLD BUSINESS:

Department Heads Meeting:

Bax asked what the status of the Department Heads meetings?

Newlin said he would set a meeting up in December with the clerk.

Riverwalk Tree Issue:

Palmer said we have been trying to determine who is responsible for the entry way landscaping.

Lannon said he believed that Mr. Britton was handling that matter.

Johnson: We needed to coordinate with the Homeowners Assoc. on this issue as we think it might be their responsibility.

Newlin asked that Mr. Britton contact Atty. Boniello on this matter.

CORRESPONDENCE:

1. A request from Larry LeBlond of 4268 Lo. River Road to authorize the Sewer Dept. to maintain the grinder system installed at his address in compliance with the department's requirement.

Lockhart: Generally, these are honored by the Town Board. However, it requires an easement that is prepared by the Town Atty.

Newlin asked that Atty. Leone prepare the easement for the next meeting.

Lockhart stated that this is a new installation that was put in by the homeowner. The homeowners bear the expense and after the installation complies with our system, the Town maintains it. A permanent easement will give the Town access for the town's equipment to service and repair it. It is on private property.

2. Request from Glenn Andrews for construction of Phase 11 of Oak Run Estates. The required copies of blueprints and PIP applications have been submitted for review.

Lannon said that the final plat has been approved for Phase 11. A letter of Nov. 19<sup>th</sup> from Dave Britton to Glenn Andrews lists the fees. Should the Town Board approve the PIP fees, then we would contact Mr. Andrews and have him submit the deposit along with the required bonds and insurance. This has already been approved by the Planning Board.

Edwards asked if the entrances and exits landscape to this development is included in the PIP.

Lannon said that the lawn areas would be planted with grass. It will be a finished product similar to the first phase of Oak Run Estates.

**Edwards MOVED for approval of construction of Phase 11/Oak Run Estates as presented. Seconded by Bax and carried 5-0.**

NEWLIN:

Legal: Stormwater Laws.

Boniello: The Stormwater Coalition of WNY of which we are a member got together for the purpose of drafting a local law that is suitable for everyone and will fit into our

local law. We were able to get a State grant that is for everybody through the efforts of an attorney from the Erie Cnty. Sewer Dept. I met with them and T. McGraw from CRA and we went through the local law regarding our current codes. I am asking the Board to set a public hearing date.

**Bax MOVED to hold a Public Hearing on December 27, 2007 at 6:45 p.m. to amend Chapter 6C in relation to stormwater management and Chapter 21 Sewers of the Codes of the Town of Lewiston. Seconded by Johnson and carried 5-0.**

**Johnson MOVED that the Town Board Meeting/Final Audit be held on December 27, 2007 at 7:00 p.m. Seconded by Bax and carried 5-0.**

Johnson noted that a public hearing is necessary for the increases in the 2008 fire contracts for the Town.

**Johnson MOVED to hold a Public Hearing on December 27, 2007 at 6:30 p.m. for the purpose of the fire contracts. Seconded by Bax and carried 5-0.**

Manhole/Curtis Court:

Boniello: The issue is the manhole at 3720 Curtis Court North. The new owner had the work done in the amount of \$1920 after getting 3 estimates.

Johnson said that previously the Town had awarded a contract to another firm but in the meantime the home was sold.

Boniello said the Board needs to approve the payment and to execute an easement.

**Palmer MOVED for payment in the amount of \$1920 from the Contingency Fund payable to Mattucci Construction Co. Seconded by Bax and carried 5-0.**

**Johnson MOVED to authorize the Supervisor to executive an easement for the property located at 3720 Curtis Court North. Seconded by Bax and carried 5-0.**

Executive Session Matters:

Leone stated that he had 2 matters with respect to litigation and a lawsuit.

Power Authority:

Newlin stated that no meeting took place.

Edwards: I met with a constituent and I do not want to not educate the citizens about this power agreement. This constituent brought up the point of why would I be paying this middle man (ESCO) all this money for this power. His question was what does he do for the power? I said he administrates. We should technically go after our own ESCO.

Newlin: Mr. Edwards you were at the meeting with Mr. Fluskey where he said that hopefully by the end of the year we would get some options as to what can be done and what the cost would be. Obviously, the decision will be can we recover enough in costs to offset the creation of an energy service company. We may be able to and we may not. In the last 4 years, I have learned that the energy markets are extremely complex and we do need effective management with respect to the megawatts.

Edwards: I feel maybe we should have seminars at each one of our fire halls and at the Senior Citizen Centers.

Newlin said that back in September it sounded like the Board was generally in favor of educational outreaches to the public. We could do some in the winter and some in the summer.

Palmer: It would be a great topic for the newsletter and could be used as a vehicle for education. Having the opportunity to go to fire halls etc. sounds great but I think the newsletter would cover a wider spectrum.

Newlin said we will try our best to get them up to speed in the newsletter that will be coming out early next year. We could set some dates as some prefer face to face contact. We could have reps from National Grid and NYSEG talking about electricity efficiency. I am going to stress that next year and I hope as this Greenway issue dies down, I will be able to spend more time on making Lewiston a real energy model as a town that uses energy wisely because that will be increasingly important over the next five years.

PALMER:

Planning Bd. Recommendation:

The Planning Board meeting in regular session on November 15, 2007, recommended approval of the subdivision of M.A.C. Development, north side of Saunders Settlement Road, SBL#118.20-3-2. The Environmental Commission recommended a Negative Declaration and the N. C. Planning Board recommended approval. The person asking for this is Morgan Associates of Pittsford, N.Y. for Family Dollar.

**Palmer MOVED for a Neg Dec on SBL#118.20-3-2 Subdivision of M.A.C. Development on the north side of Saunders Sett. Road. Seconded by Johnson and carried 5-0.**

**Palmer MOVED for approval of S.B.L.#118.20-3-2 Subdivision of M.A.C. Development as presented. Seconded by Johnson and carried 5-0.**

Haz-Mat Control Commission:

**Palmer MOVED for approval of membership for Jason Leber and Joshua K. Lengen to the Haz-Mat Control Commission for the Town of Lewiston. Seconded by Bax and carried 5-0.**

JOHNSON:

Sanborn Fire Co. Roster:

**Johnson MOVED for the approval of Amy Engelka to the roster of the Sanborn Fire Co. Seconded by Bax and carried 5-0.**

Neil Nolf Proclamation:

Mr. Nolf served 28 years as the Public Relations Officer at the N.F. Air Base and was honored on November 9<sup>th</sup>.

**Johnson MOVED that a proclamation be prepared by the Clerk's Office and be presented to Mr. Nolf at the Dec. 27, 2007 meeting. Seconded by Palmer and carried 5-0.**

EDWARDS:

Town Hall Renovation:

The handicap doors and the new glazing have been installed. The employee bathrooms should be completed within a week or two. We will have our security systems provider (P. Cerra) give us a quote on making the employee entrance door/security code handicap assessable so that the doors would automatically buzz open without having to use a key. Mr. Cerra will also be providing us with information on a possible swipe system. Also, thanks to the Town Clerk for her assistance.

BAX:

Moratorium Extended:

I understand that the moratorium on the wind energy was extended through 2008. (Yes)

W.P.C.C.

2008 Sewer Use Contract:

**Bax MOVED for approval of the 2008 Sewer Use Contract with modifications for the Town of Porter and the Villages of Lewiston & Youngstown subject to review by the Town Attorney.**

Lockhart: This is basically the annual agreement. Atty. Leone has copies of it with respect to the related flows and the I & I with the contract.

Bax indicated that Mr. Lockhart was able to come up with a scheme in the event that high water would put the load of the capacity to come from each municipality in the form of a penalty. Each municipality would deal with their own I & I issues. So, we are dealing with that. This is the first time it has been dealt with since 1993.

Lockhart said that the capacity is already set by contract from the 1970's. So, it places the emphasis on reducing non sanitary flows to the plant.

**Seconded by Palmer and carried 5-0.**

Lockhart commented that the water table in the ground is very low and the ground is dry enough to absorb the recent rainfall. We will see what happens when the ground is wet. The Village of Lewiston is addressing the problem. I have noticed through these rain storms where in the past, even though it has been dry, we have seen their flows increasing and now the rate of increase is greatly reduced. We are keeping an eye on that.

Shared Municipal Services Incentive Grant:

This is a grant that would potentially provide the W.P.C.C. with up to \$800,000, \$200,000 per municipality serviced by the plant. I think we have estimated it at a \$600,000 goal. \$60,000 of the 10% contribution... right Mr. Lannon?

Lannon: That is part of the State SSI. Each municipality is available for a maximum of a possible up to \$200,000 per municipality. So, the 4 municipalities with the max being \$800,000. We have done a tax list and we estimated it would be about \$600,000. The grant program if successful would cover about 90% of that so that would leave approximately \$60,000.

Lockhart said that because it would be a grant for the 4 municipalities, I think the easiest way to administer the 10% charge would be through budget code SS1 which is the treatment plant which all 4 municipalities contribute to. Also, all 4 municipalities basically have the same resolution with their names inserted. If we could get it, I think it would be a good step forward towards reducing flows to the plant.

Bax: This resolution would authorize us to go forward in seeking the grant.

Lannon: This document would show the Town Board's support of this. We are asking each of the four members of the municipalities to do the same thing.

**Bax MOVED that the language of the Resolution be submitted to the Clerk's Office and put into the record. Seconded by Edwards and carried 5-0.**

**Resolution No. 15 – 2007**

**Resolution Re: Shared Municipal Services Incentive (SMS) Grant Program  
Regional Wastewater System Infiltration & Inflow Study  
Shared Services Analysis**

**WHEREAS, the Town of Lewiston, in conjunction with the Town of Porter, Village of Lewiston and Village of Youngstown, is submitting an application to New York State's Shared Municipal Services Incentive (SMSI) Grant Program to study the wide-spread inflow and infiltration (I & I) within each community's sanitary sewer system and the financial efficiencies of addressing this cooperatively; and**

**WHEREAS, The SMSI Grant Program is designed to foster cooperation between local governments in order to improve efficiencies and reduce costs for providing services to taxpayers; and**

**WHEREAS, The SMSI Program awards financial support for programs such as municipal consolidation, mergers, cooperative agreements and other shared service endeavors; and**

**WHEREAS, The Town of Lewiston, Town of Porter, Village of Lewiston and Village of Youngstown have a current Inter-Municipal "Annual Agreement" for treatment of wastewater at the Town of Lewiston Water Pollution Control Center; and**

**WHEREAS, The Town of Lewiston Water Pollution Control Center, as the holder of a State Pollution Discharge Elimination System (SPDES) Permit issued by the New York State Department of Environmental**

Conservation (DEC) is required under 6 NYCCR Part 750-2.9 (a) (2) of said permit to “identify all inflow to the tributary system and remove excessive infiltration/inflow to an extent that is economically feasible” and

WHEREAS, The Town of Lewiston Water Pollution Control Center is currently under Order of Consent from the DEC to address the regional I & I issue, and

WHEREAS, Wastewater utility operation and maintenance costs continue to rise as a result of aging infrastructure, system inefficiencies, labor and benefit costs, and increasingly stringent regulatory mandates; and

WHEREAS, Increased utility costs are placing significant upward pressure on wastewater rates that will result in impending increases and hardship for residents; and

WHEREAS, Opportunities exist among the Town of Lewiston and the Town of Porter, Village of Lewiston and Village of Youngstown to work collaboratively to identify the sources of I & I, identify smart investments in targeted areas, address regulatory issues of the regional system, and to provide wastewater services more efficiently and at lower costs to ratepayers; and

WHEREAS, A detailed engineering analysis is necessary to study the regional I & I issue, develop recommendations for improvements, generate equitable cost sharing formulas, and evaluate sharing of services among each entity and how to provide these services in the most efficient, cost-effective manner, which will benefit each entity and their ratepayers; and

WHEREAS, The Town of Lewiston Water Pollution Control Center, as the common treatment facility for each entity and the SPDES permit holder, will act as technical lead for the I & I study and use resources partially funded by the Town of Lewiston to assist with said study; and

WHEREAS, The Town of Lewiston will serve as the lead applicant to the SMSI Grant Program and the Town of Porter and Villages of Lewiston and Youngstown will be co-applicants; and

WHEREAS, The application will request a maximum grant of \$600,000, of which the required local 10% match would be paid proportionately by the Towns of Lewiston and Porter and Villages of Lewiston and Youngstown contingent on the total amount of the grant; and

WHEREAS, Each entity will work cooperatively to share all necessary information in a timely manner for the benefit of the study and will enter into an “Inter-Municipal Agreement” that will be contingent on the awarding of a grant,

NOW THEREFORE BE IT RESOLVED, that the Supervisor and members of the Town Board authorize Timothy Lockhart, Water Pollution Control Administrator, to act as Lead Applicant Contact Person for submittal of an application to the SMSI Grant Program and work cooperatively under the Lead of the Water Pollution Control Administrator to oversee the I & I study and evaluation of shared services among the Town of Lewiston and the Town of Porter, Village of Lewiston and Village of Youngstown.

CAC Meeting:

There will be a CAC meeting on December 3, 2007 at 5:00 p.m. here at the Town Hall. At that meeting I want to make sure that the public is aware that the DEC is going to be there to discuss the results of the PCB investigation at CWM. Also, the current SPDES modification that are ongoing and being discussed. If the public is interested in reviewing the SPDES modifications those can be found on the Town’s website. The CAC is a liaison so to speak between the Town and CWM on the one project and basically it’s that the CAC is a mandatory organization that has been established by the Environmental Conservation Law and the individuals on it are appointed by the Town and County to regulate. It is very important in my perspective as the liaison there.... and having learned so much about what is going on in my backyard and I think it is very important to the public to attend these meetings. At the last meeting we had 10-12 people attend and I would like to see more people show up just to get an earful. I think they would be surprised at what they hear when they attend.

Newlin: We would like to get better attendance so the audience will learn. We could always use more members to the group.

Bax said as child growing up here, these are issues that I have heard about and people have tried to make sure that our Town is safe from an environmental and transportation stand point. Now that I am the chairperson for the organization it strikes me how few people actually show up. As the newsletter was mentioned earlier, my contribution to that would be that I keep people abreast of what is happening. Importantly, I would like to see if we could get more people to attend the meetings.

**Bax MOVED to go into Executive Session at the request of Atty. Leone for contractual matters/lawsuit; Contract #15Water System Improvement and litigation matters. Seconded by Johnson and carried 5-0.**

Time: 8:10 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon  
Town Clerk

**Executive Session**

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Dpty. Tn. Atty. Boniello;\* Eng. Lannon; Adm./Op. Lockhart.

Several items were discussed.

**Motion to Exit and Reconvene made by Johnson, Seconded by Edwards and carried 5-0.**

Time: 9:15 p.m.

**Bax MOVED to pay \$162.00 to Pat Bartko of 4616 Creek Road after a general release is signed. Funds to come from SS-2. Seconded by Palmer and carried 5-0.**

**Bax MOVED to pay O'Brien & Gere Engineers the sum of \$13,500 after a general release is signed and received. Funds to come from H-86 7140.0400. Supervisor authorized to sign settlement agreement. Seconded by Palmer and carried 5-0.**

**Bax MOVED to award Contract #15 Mt. View Drive Water Systems Improvement to Occhino Corp. as the lowest bidder in the amount of \$1,433,226. Seconded by Newlin.**

Edwards stated that he would abstain from the vote because of great reservation.

**On the vote: Bax, Johnson, Palmer & Newlin Aye. Edwards: Abstain. Motion carried 4-0-1.**

Time: 9:35 p.m.

Respectfully submitted by:  
Carol J. Brandon  
Town Clerk

Minutes taken by:  
David Boniello\*  
Deputy Tn. Atty.