

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

ALSO PRESENT: Councilman-elect Ernie Palmer

The Supervisor called the worksession to order at 7:15 p.m. He paused for a moment of silence to remember the passing of Fire Inspector Pat Martin's mother, Joan.

Johnson asked to add the following to the agenda: Public Forum, Gas Line Noise, and Drainage Update; Bax asked that Item 16, Tower Application be addressed immediately following the approval of the agenda. Edwards asked address the town hall rooftop unit..

**Bax MOVED to approve the agenda, as amended. Seconded by Johnson and carried 5-0.**

16). **Verizon Tower Application:** Robert Burgdorf, representing the law firm of Nixon Peabody, addressed the Board with respect to an application by Upstate Cellular d/b/a Verizon Wireless for a minor antenna modification to the existing tower located at 4746 Model City Road. Verizon has complied with all the requests of the Tower Committee. Town Attorney Leone said he reviewed the application. All of his concerns have been addressed. As far as he is concerned, there is no reason not to go forward with the antenna modification request.

**Bax MOVED to accept and approve Verizon's application for antenna modification to the existing tower located at 4746 Model City Road. Seconded by Pacioni and carried 5-0.**

1). **Approval of Abstract: Pacioni MOVED to approve the Abstract of Claims, Nos. 3596 – 3926 and recommended payment in the amount of \$704,650.26 plus a post-audit of \$82976.05. Seconded by Johnson and carried 5-0.**

2). **Lead Agency on Supplemental EIS/Golf Course:** Newlin said they are moving forward with anticipation for a golf course in the Town of Lewiston between Creek Road and the Joseph Davis Parkway. Private development was sought through the Seneca Nation of Indians. They are moving forward with engineering requirements. Engineer Lannon was asked to give a progress report with respect to those requirements.

Lannon noted that on 9/25, they issued a letter addressed to Steve Doleski, NYSDEC and copied all interested and involved agencies requesting that the Town of Lewiston declare its intent to act as lead agent for the supplemental Environmental Impact Statement (EIS) that is currently being prepared by the Seneca's. Lannon said there was an EIS done for the golf course a few year's ago that identified at that time the town's version of the golf course. There were a couple of changes proposed by the Seneca's, such as the reduction of the residential development component. The forty-acre subdivision is no longer included, he said. That is all going to be golf course. Also, the entrance across from Swann Road along Creek Road has been moved approx. 2000-ft to the south. Lannon said there may be some other small minor changes but what the SEQR statute allows you to do is to embrace those changes without having to go through the EIS from square one. You just need to address the environmental impact of those changes proposed between the two versions. Lannon said the time frame has expired to make objections to the town being lead agent to the project. Since there were no objections, Lannon offered for the Board to consider that the town act to formally adopt lead agency status for the Supplemental EIS.

**Johnson MOVED that the Town of Lewiston accept Lead-Agency on the Supplemental Environmental Impact Statement for the golf course project. Seconded Bax and carried 5-0.**

3). **Planning Board Vacancy:** Newlin said they would address this at the next meeting.

4). **Sewer Use Agreement**: Bax said the Board was given copies of the Sewer Use Agreement at the last meeting for review. Since there have been no comments, corrections or modifications to the agreement, Bax moved for its approval.

**Bax MOVED to accept the Sewer Use Agreement for 2007, as presented. Seconded by Pacioni and carried 5-0.**

**Bax MOVED to authorize the Supervisor to execute said Agreement. Seconded by Johnson and carried 5-0.**

5). **Environmental Commission Vacancy**: Edwards said he is in receipt of one application to fill an unexpired term on the Environmental Commission thru 12/31/08. **Edwards MOVED to appoint Deborah Korpinski to the Environmental Commission. Seconded by Bax and carried 5-0.**

6). **Sanborn Library/Carpeting Funding**: Pacioni noted at the last meeting, the Board accepted the bid from Mooradian Rug Co. in the amount of \$11,742.44 for replacement carpeting at the Sanborn Library. They now need to designate funding for same. **Pacioni MOVED to designate funding from A-1990-0400 (Contingency) in an amount not to exceed \$12,000. Seconded by Bax and carried 5-0.**

7). **Old Town Landfill/Modern Ownership**: Atty. Leone said the amended Host Community Agreement (HCA) contemplates that the town will relinquish its ownership in the Old Town Landfill to Modern and further contemplates that Modern will then assume the financial responsibility to its clean-up. Subsequent to the HCA, the Town had entered into a lease agreement in 2000 wherein it conveyed to Modern the right to purchase the old landfill. Modern's attorney has now expressed an interest of that corporation to exercise its right. Leone said he had a question based on the legal description of the property that was presented to him. That has now been cleared up. I see no reason not to convey what the town is contractually bound to convey, he said. Modern would now pay for its clean-up so the town doesn't have to. It seems to me to be a win-win situation.

As a point of information, Leone said any conveyance of town property is subject to permissive referendum. I just let you know that by way of any resolution that you adopt. If you decide to go forward I would want it also that the Supervisor has the ability to execute whatever documents that need to be signed.

Leone said the Town will convey the property by way of Quick Claim deed. There is nothing that has been discussed with him thus far about putting any additional clauses in the agreement. Whatever the original contract says, that is what we do in our deed of conveyance. As I've said, as of now, it has no additional language.

Leone said the resolution to be adopted would allow the Town of Lewiston to convey by Quick Claim deed certain property formerly known as the Town Landfill with the legal description to be approved by the Town Attorney, such conveyance pursuant to the Amended Host Community Agreement between the Town and Modern Landfill, Inc. and also pursuant to a subsequent lease agreement between the Town and Modern.

**Johnson MOVED for approval of said resolution as read by the Town Attorney. Seconded by Pacioni and carried 5-0.**

Leone said the subsequent resolution would be that the Town Supervisor be authorized to execute any documents that may be required for this conveyance and an acknowledgment that the conveyance may be subject to permissive referendum.

**Johnson MOVED for approval of the aforesaid resolution. Seconded by Pacioni and carried 5-0.**

8). **Uniform Fire Prevention & Building Code**: Leone said he would be meeting with the Bldg. Inspector on Wednesday with regard to a draft local law for the administration and enforcement of the NYS uniform fire prevention & building code. Inasmuch as the Fire Inspector would not be able to attend said meeting due to personal reasons, it was suggested that the public hearing on the proposed local law that was scheduled for 12/28/06 be cancelled.

**Edwards MOVED to cancel said public hearing of 12/28/06. Seconded by Bax and carried 5-0.** Newlin said the hearing would be rescheduled at a later date.

9). **Greenway Update:** Newlin said they have had more time as the Power Coalition and as individual members of that coalition to review the proposed greenway draft. At this point, the Power Coalition has some serious concerns with regard to who would actually be determining consistency with the greenway plan and who would be authorizing funding. Sam Ferraro, a member of the coalition, has submitted a point by point recommendation back to the Greenway Commission to take the coalition's perspective into consideration. Some of the Greenway Commission's final draft did not seem to take into account a lot of things we, as Host Community members and river communities had given to in the last better part of the year. Hopefully, we will be hearing back from them in the next few weeks. If everything goes according to schedule, this Board, and other town boards across the Niagara Frontier and in Erie County will be asked to approve a Greenway Plan by the March 30, 2007 deadline.

Also, Newlin said the Power Coalition has come to agree with the town's position that Harris Beach wasn't the best law firm to be representing the coalition. With that in mind, the services with Harris Beach are finished and they are proceeding with interviewing for an attorney with a solid background in municipal power distribution to represent the coalition. He would keep the Board informed of such proceedings.

Lastly, Newlin said he would entertain a motion designating the Supervisor to be the town's representative and voting member on the Niagara Power Coalition. This is done on a yearly basis, he said.

**Bax MOVED to designate the Town Supervisor as the official representative and voting member of the Town of Lewiston on the Power Coalition and in his absence the Supervisor would appoint a designee to representative the Town. Seconded by Pacioni and carried 5-0.**

The Greenway Plan is very complicated, Edwards said. It is a wonderful plan but it's not great for the Town of Lewiston's share of the Greenway monies. We have good plans in place, viable projects -- why aren't they including this. What part of our contract with the Power Authority states that the State tells us what to do or tells us what projects we can do? It seems pretty simple that if our projects fall within the perimeters that we do our projects not theirs. That is why there is some confusion.

Newlin said they must rely on the Host Community Settlement with the NYPA. That is a matter of contractual law. Within that document, it says that a standing committee of the host communities (the seven members of the Power Coalition) shall determine whether or not a particular project is feasible or consistent with the Greenway Plan. If that language is clearly reflected within the overall Greenway Plan, I think a lot of the fears of the Power Coalition and its members have will be alleviated. The Town will have more than half a million dollars every year for 50-years. We want as much flexibility, not just for us, but more importantly for future boards that will see projects that we can't even identify right now no matter how much time we spend looking at this issue. Newlin said he negotiated the agreement for the benefit of the entire town, not the river part of the town more so than another.

Lastly, Newlin said the Greenway Plan must have unanimous support of every community when it votes on the final plan. That will be a challenge, he said.

10). **Drainage: 935 James Drive:** Lannon referred to a memo dated 12/11/06. He and the Highway Supt. performed a site visit to investigate a drainage complaint. During the site walk, the homeowner (Mr. Forcucci) joined them. Supt. Reiter suggested that a dye test be performed to better assess the field conditions and it was agreed that Mr. Forcucci call Mr. Reiter to perform the dye test the next time the problem is observed. Potential remedies may be identified following the dye test.

11). **Textile Bid:** Leone said he reviewed the bids submitted to him by the Town Clerk. Bids were opened on 11/20/06. Bids were received from the Doritex Corporation and Coyne Textile Services. The apparent low bid was submitted by the Doritex Corp. in the amount of \$328.31/ week. Coyne submitted a bid of \$428.17/week.

**Johnson MOVED to accept the low bid from the Doritex Corporation for Textile Rental Services. Seconded by Pacioni and carried 5-0.**

**Johnson MOVED to authorize the Supervisor to enter into a 3-year contract with the Doritex Corporation for Textile Rental Services, beginning Jan 1, 2007. Seconded by Pacioni and carried 5-0.**

12). **HVAC Preventative Maintenance Bid:** Leone said he reviewed the four bids submitted to him by the Town Clerk. Bids were opened on 11/20/06. The apparent low bid was submitted by D.V. Brown in the amount of \$1,380/year. Other bids were submitted by John W. Danforth (\$1,588); Camtech Mechanical (\$1,595); and Carrier Commercial Services (\$2,987).

**Johnson MOVED to accept the low bid from D.V. Brown & Associates for HVAC Maintenance Services. Seconded by Bax and carried 5-0.**

**Johnson MOVED to authorize the Supervisor to enter into a contract with D.V. Brown & Associates for HVAC Maintenance Services for 2007. Seconded by Bax and carried 5-0.**

13). **Janitorial Bid:** Newlin said bids were accepted on 11/20/06 for Janitorial Services for the Town Hall, Senior Center and Highway Garage. Individuals or firms could bid on one, two or all three buildings. Last year's contract was awarded to O.T.I. Inc. Again, O.T.I. appears to be the lowest bidder to service all three buildings. Under the existing contract, Leone said there is a clause which stipulates that a contractor shall provide further that any and all of its agents, servants and employees who may be working at the Town of Lewiston Town Hall pursuant to this agreement shall be bondable although such bond shall not actually be required unless demanded by the Town. Leone said he requested that but was never provided that information. It's not part of the bid specifications, per se, but it is part of the contract that we have historically used for this particular service. It would seem to me prudent to determine whether or not the employees of the various bidders are bondable before the contract is awarded, he said.

Newlin deferred the matter until the regular meeting to allow O.T.I. to provide proof that their employees are bondable.

14). **Environmental Commission:** Edwards referred to a request from the Environmental Commission requesting each member be paid for meetings attended during the year. **Edwards MOVED to approve payment for meetings attended at an amount not to exceed \$1,760. Seconded by Newlin and carried 5-0.**

15). **Retiree Health Coverage:** The majority of Town retirees are enrolled in the Univera SeniorChoice plan. The 2007 cost for this plan is \$253.84 per person. Univera has come out with an Option 1 Medicare plan that mirrors the SeniorChoice benefits but is less expensive because of Medicare Part D subsidy. The cost for this plan is \$203.84 per person – a savings to the Town of \$12,000 for 2007. The Town's health care administrator, Jerry Mann said there is no difference in benefits to the subscriber. If the Board chooses this plan, retirees would not need to fill out new applications; they would be transferred by Univera as a group into the new plan upon the Town's request.

**Johnson MOVED to approve Univera SeniorChoice Medicare Option 1 as the 2007 medical plan for town retirees. Seconded by Pacioni and carried 5-0.**

16). Tower modification approved as the first item of business.

17). **Trolley Expense:** Newlin said the Historical Assoc. of Lewiston requested funds to offset expenses for trolley use at the Historic Home Tour. Newlin said he authorized \$600.00. Monies are available in the A-fund contingency budget. **Johnson MOVED to approve payment of \$600 to the Historical Association of Lewiston with funds to come from A-1990.0400. Seconded by Edwards and carried 5-0.**

18). **Saddlewood Lighting:** Lannon said he met with Dr. Cooper with regard to additional street lighting at Saddlewood. It was determined that the quickest and best

way to have additional street lights in that subdivision is the formation of a lighting district. Lannon provided a memo summarizing the procedure for that. Should the Town Board elect to allow this to proceed, the first step would be for the residents to submit a petition to the Board. The petition must be fairly specific in what it includes, Lannon said. He offered to help in the preparation of same. The petition must be signed in excess of 51% of the homeowners that reside along the road frontage.

Lannon said he was unsure how many lights are being requested by the residents. The Board agreed to one light, based on his interpretation of a town board resolution for street lighting of T-intersections, cul-de-sacs, and dangerous curves. Based on his interpretation of that, Lannon said one additional light would be warranted. The Lighting Committee disagreed with that recommendation fearing that it would set a precedent.

Lannon said he met with Kim Johnson of National Grid who submitted a proposal for one additional street light at Paddock Lane. If the Board is so inclined, he would get in contact with Dr. Cooper to determine how many additional lights are sought and the locations of these lights. He would invite Kim Johnson from National Grid to join them. Ms. Johnson would then submit a proposal for the additional lighting. That type of information needs to be included in the petition, Lannon said. Providing they get 51% of signatures of represented road frontage that would be the hurdle for everything else to happen.

19). **Public Forum:** Johnson said he has received numerous calls from residents of water backing up into their basements during a recent rain event. There was too much pressure backing into the system, he said. Property owners are part of the problem. It's time we call a public forum together. Lockhart could discuss some of the I&I problems that homeowners could try and help alleviate. Invite the residents to come in and discuss that issue as well as other topics of concern. Newlin said they could set some dates and topics during the next few meetings.

Lockhart said the amount of rainfall during the rain event of 12/1 wasn't that great. We realized about 2.5 inches of rain in 23 hours. What made this one different and maximized the impact is that months prior to the event was the amount of moisture saturated into the ground during the rainfall in September and October. Each month saw about 6-inches of rain which is higher than normal. In the early part of November, we saw 2.5 inches of rain. This time of year the sun is lower in the horizon so you don't get the drying value from the sun. The ground has a tendency to stay saturated. During the rain event of 12/1 the drainage system became maximized early. Ditches could not handle the rainfall which overflowed on to people's yards and in some cases found its way into sanitary sewers thru vents, leaks, etc.

Dep. Atty. Boniello refreshed the Board's recollection of legislation for stormwater management. He said he would be coming before the Town Board with a draft of a local law to meet the requirements of New York State and the federal government toward that issue.

20) **Gas Line Noise:** Johnson said there is a gas line pump station located on town property on Lower River Road across from the Lewiston Senior Center that makes a tremendous amount of noise. If authorized, Newlin said that as a matter of municipal concern, he would send a letter to the Tennessee Valley Authority to address the matter. Lannon said he would assist in drafting the letter. Copies of the letter to be forwarded to neighboring residents.

**Johnson MOVED to authorize the Supervisor to submit the letter to the Tennessee Valley Authority. Seconded by Pacioni and carried 5-0.**

21) **HVAC Rooftop Unit:** Edwards referred to a memo from CRA regarding the Town Hall's HVAC unit. At the last meeting, the Engineer was asked to look at and determine if the unit would fit the needs at the WPCC. A site visit was conducted on 11/30. It was determined that the rooftop unit at Town Hall is not a viable option at the

WPCC because it is oversized for their needs and would be inefficiently used at the plant. The WPCC would also lose its current ability to temperate different areas of the administration building that its current system allows for with its multiple units.

Basically, we're going to have to live with what we have at Town Hall, Edwards said. There are no other options. A few months earlier, Lannon had obtained three quotes to structurally stabilize that unit. We need to appropriate the funds tonight, he said.

**Edwards MOVED to allocate an amount not to exceed \$11,000 to have structural steel put in place to support the existing roof top unit. Seconded by Johnson and carried 5-0.** Funds to be allocated from the Town Hall capital fund building project.

Edwards noted that during the rain event of 12/1, a problem occurred at the town hall due to a leak in the roof. For the record, Edwards said the roof at the Town Hall did not fail. The service contractor that services that rooftop unit put a panel back on and didn't secure it. Due to high winds, the panel came off and slit the roof. That is what caused the leak.

Edwards said the roof is bonded. There is still one and a half years left on the warranty. They called in for an emergency roof repair. Other than that, Edwards said there is some duct work that needs to be completed from the original installation. A "punch list" containing eight items was identified that is also needed to be completed by the contractor of record that installed it. So we're all clear, as soon as that steel work is done, he is to complete that "punch list".

**2007 Annual Training School:** On behalf of elected officials and department heads, **Johnson MOVED to approve attendance at the NYS Association of Towns Annual Meeting and Training School in New York City, February 18-21, 2007, providing there is appropriate funding in their respective budgets for this. Seconded by Edwards and carried 5-0.**

**Assessment Review Board:** Johnson referred to a request from the Town Assessor recommending the reappointment of Rita Hager to the Assessment Review Board effective 10/1/06 – 9/30/11. **Johnson MOVED for approval. Seconded by Edwards and carried 5-0.**

**Johnson MOVED to adjourn. Seconded by Pacioni and carried 5-0.** Time: 8:50 p.m.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk