

PRESENT: Sup. F. Newlin; Councilmen J. Ceretto, M. Johnson, D. Kilmer & J. Langlois; Dep. Sup. E. Elgin; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; Finance Officer A. DiRamio; WPCC Ad./Op. T. Lockhart; 3 Press; 25 Residents; and Dep. Clerk C. Schroeder

ALSO PRESENT: Councilman-Elect Sean Edwards

The Supervisor opened the public hearing at 6:45 p.m. The Clerk read the public notice into the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston, New York on the 12<sup>th</sup> day of December, 2005 beginning at 6:30 p.m. at the Town Hall, 1375 Ridge Road for the purpose of selling 10.88 acres of land to Old Creek Development at the purchase price of \$147,000. The property is situate in Town Lot 42, Township 14, Range 9 in the Town of Lewiston, County of Niagara, State of New York, all as shown on a map entitled "Lewistowne Park, Recreation Area", prepared by the Sear Brown Group, Inc., dated March 5, 1993. A complete description of the Town Property is on file in the office of the Lewiston Town Clerk. All persons, for or against such proposal, will be given the opportunity to be heard.

By order of the Town Board  
November 28, 2005

Newlin said they would be discussing the potential sale of 10.88 acres of public land located west of Creek Road and north of the Lewistowne Park Subdivision for the potential use of a golf course. Newlin noted that a previous town board was dedicated to pursue a public golf course. That issue was examined thoroughly. Newlin noted that when he became elected, he decided to seek private investment. That is why we are here tonight. The Town, he said, is selling what could be considered a long-term liability. If the Town had pursued a public golf course, the town would have had that land off the tax rolls, as well as be burdened with the staffing, mowing of the lawns, upkeep and management of that golf course. I do think this is a proposal that the entire Town Board supports.

With that said, Newlin said the town is trying to recover two costs. The land itself, according to an appraisal made this past summer, was appraised at \$50,000. The town is proposing to sell the land at \$147,000. Not only are we trying to recover the cost of the land, but we will also like to try and recover as much of the cost as we can with respect to engineering. The Engineer was asked to give a summation as to what those costs were.

Lannon noted that several years ago, the Town authorized the Town Engineer at that time, O'Brien & Gere Engineers, to undertake the environmental review process – SEQR. A positive declaration was made resulting in the preparation of an Environmental Impact Statement ("EIS"). This required an in-depth environmental study on that particular piece of property with the intent for use as a golf course. A handful of significant environmental issues were identified by the town, NYSDEC, town residents and Army Corps. of Engineers – all of which had input into the development of that EIS thru public hearings, written comments or meetings with the DEC, and so forth. Those issues resulted in preparation of a Joint Application for Permit which was submitted to the Army Corps. of Engineers and the NYSDEC. Lannon said there were issues related to ownership of 5-acres of DOT land that bisects the property; significant issues related to wetland identification (federal & state); endangered trees; etc. All those issues were identified and written up in the impact statement, he said.

A question was raised as to the legality of selling the property. Attorney Leone noted that any sale would be subject to permissive referendum. Other than that proviso, it can be sold. There is not a requirement for a public hearing to sell property. A hearing was held because of the nature of the original project being a golf course, and being the fact that public hearings have been previously held. The public has been involved in this right from the junket, given the fact that it is the golf course, and based on discussion with counsel, the Board determined to do it by way of a public hearing as opposed to answering to a resolution to sell.

Kilmer noted that the area surrounding the existing homes will stay "forever green". There will be a conservation easement. It is not going to change from "forever green" that it is now. It's just that the town is not going to own it.

Langlois: There are some 17 acres involved. This hearing only advertised for 10.88 acres. We will probably need another hearing if we include the rest of those acres. I'm just telling the folks that the whole 17 acres will probably be sold.

Newlin: You are correct but we have not gotten an official request from Mr. Dowd. Until he gets that request to us in writing we can't act on it.

The Supervisor invited comments from the public at this time. They would address the public comments at the work session following the hearing.

William Geiben, 420 Oneida Street, said he, as Village Trustee and representing Mayor Soluri, speaks highly of the project and recommends moving ahead with it as it is being presented. It will bring named recognition to Lewiston, a quality golf course, recreation for the community, improve drainage, and improve the tax base. The quality of life for the surrounding area is all positive. We think it is a good project.

As former town councilman, Geiben said he was on the Board in the 80's when this piece of property was being considered for recreation. He, and former board members Mary Beth Brado and Cal Schulz, particularly were not embracing developing this as a town recreation site. It was proposed for a girls' softball diamond. We thought the access off Creek Road was too long and isolated. We didn't care for having Creek Road as the egress. As the development would take place along the residential part of Lewistowne Subdivision, we weren't in favor of having on-street parking for the park, as occurs at Kiwanis Park. This piece of property that has been sitting here for years really isn't conducive for a town facility on its own. We think it's an ideal suggestion that we include it in the golf course.

Frank Fracassi, 4688 Curtis Ct. North, asked what is being proposed on that site. A map dated 2004 shows the 13<sup>th</sup> green close to the back side of his property. Where is the actual property line going to be? It is not depicted properly. It doesn't even show the Perry Court cul-de-sac on that drawing. I think it's odd that the developer isn't here with some better plans for us to review. When you look out the back of my house you see this nice green area. I was told nothing could ever be built there. I would like to see the plan. That is my purpose in being here.

John Stoyell, 791 Thornwood Drive, said the Town should never get into a business. I also believe that although I live on Thornwood which borders it, from what I can see I would be in favor of it. I think the Board should sell the property but to someone who is going to pay cash and someone that is going to be paying taxes.

Paulette Glasgow, 836 The Circle, said she, as former town board member and liaison to recreation, had been told that this property was designated and dedicated under a local law that the developer designate land in-lieu of paying a recreation fee. Mr. (Leo) Giusiana gave us the land, rather than the money. In all the research I have done, this was supposed to be a park. My concern is because this property was accepted and dedicated – whether it is forever green or recreation – you have to approach the state legislature to have it sold by special legislation. I would like that to be researched before you sell this land. If it was donated and accepted for the purpose of developing a playground for children or park that you must seek special legislation from the state legislature to even consider selling it.

Also, if Mr. Giusiana dedicated or donated this property under estate properties and tax trust law, did he consider this a charitable donation? If it is considered a charitable donation it has to be used for the purpose for which it was donated, which was originally that it was to be a park. In speaking with John Giusiana last week I understand that before this land was dedicated or given to the town or after the town accepted it, John drew up some park designs. Leo (Giusiana) did want this to be in some instance a park for the kids of Lewistowne. I would hope that before you do this sale that you would look into this and see if you have to have special legislation and if it falls under the estate powers and trust law.

John Hager, 4695 Curtis Ct. North, said this might be a great thing or not but at this point in time there are more questions and concerns than there are answers for. We want to know exactly what the plans are before we go further.

Glenn Ziobrowski, 4689 Curtis Ct. North, asked that if for some reason the golf course doesn't go thru, would that land be reverted back to the town.

Amy Witryol, 4726 L. River Road, urged the Board to consider ways in the deed conveyance for this property to prohibit the removal of any soil from this property as well as the property that the developers own and are going to transfer use in some manner with a third party for a golf course. As you well know, we have a history in the town of many projects apparently moving forward and digging lots of big holes and having clay sold for landfilling only to find that the projects were never even going to come to fruition. Whether or not the property reverts back to the town we would certainly like to see a prohibition on any removal of soil so there are no questions whatsoever as to whether clay from that area has been sold for the purposes of a landfill.

The second important thing is to stop the feasibility study dead in its tracks. A year-and-a-half ago when the Town Board decided to go forward with a feasibility study for Industrial Pre-treatment it was for no purpose other than to serve CWM. We have had five different reasons since as to why that program should be continued. We have no clear reason that I know of for the Town to go forward... I think the feasibility study is a very important issue and if not for this hearing, I would have had absolutely no opportunity to comment on it from the time the motion was passed at the last public meeting through this worksession. At a very critical time when this is moving forward the advancement of the feasibility study could further seed CWM's application for a new landfill, which the people of this town are overwhelmingly opposed to.

**Kilmer MOVED to close the public hearing. Seconded by Langlois and carried 5-0.** Time: 7:10 p.m.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk

**DECEMBER 12, 2005**

**Town Board Worksession**

**7:00 p.m.**

PRESENT: Sup. F. Newlin; Councilmen J. Ceretto, M. Johnson, D. Kilmer & J. Langlois; Dep. Sup. E. Elgin; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; Finance Officer A. DiRamio; WPC Ad./Op. T. Lockhart; 3 Press; 25 Residents; and Dep. Clerk C. Schroeder

ALSO PRESENT: Councilman-Elect Sean Edwards

The Supervisor called the worksession to order at 7:35 p.m. A request was made by Councilman Johnson to discuss item #4 relating to concerns of the Fire Bureau before proceeding with the agenda, as submitted. In addition, he asked to include the following items to the agenda: 15) budget transfer request; 16) Association of Towns meeting; and 17) feasibility study.

**Johnson MOVED for approval. Seconded by Kilmer and carried 5-0.**

**Langlois MOVED to add a request from Tim Lockhart to purchase 2 replacement pumps. Seconded by Johnson and carried 5-0.**

Newlin said he had an issue to discuss in executive session re Niagara Power Coalition – Negotiations. He said he would remove Item 14 – NIMS Resolution.

4) Vista North/Fire Bureau Concerns: Chairman Les Myers addressed a concern from the Fire Bureau on the accessibility issue of Vista North Subdivision. Concerns of development along the Escarpment started years ago with Oakhill Subdivision. The Bureau at that time compromised on the access and grade issues by requiring homes to have a monitored fire alarm system and residential sprinkler systems installed. There were concerns aired at that time that there may be problems gaining access during the winter. Development continued with Sullivan Court and the same standards were applied. A second access to Sullivan Court was required and this was accomplished.

Myers said the Fire Bureau requested for inclusion in the development plan for Vista North sprinkler systems, monitored fire alarm systems and a proposal for an alternate way to provide two ways of access or egress into that subdivision. This was discussed at a meeting on 11/14. The Fire Bureau was supposed to meet with the Developer, John Giusiana to address these concerns. This meeting never occurred. The subdivision was approved the following Thursday (11/17).

Myers said these are concerns that must be taken care of in the future -- all in the interest of public safety. It's not that we are against the development. We welcome development into Lewiston. We are looking to make these developments safe for the residents that have to live there and safe for the firefighters and first responders that have to respond to emergency calls.

Myers said the issues of second access have had support of the planning and town boards. Subdivision codes should be revised to reflect such concerns. Wm. Fyfe, Fire Chief of Lewiston #1, said he supports Les Myers and agrees with him 100% on these safety issues.

Kilmer said Town Code does not require second egress. Although it needs to be considered, you can't hold a person to a law that is not there.

Johnson said the town has been known to be "developer unfriendly". We want to be friendlier but we also want to be behind the concerns raised by the Fire Bureau. Johnson said he spoke with the developer of the adjacent subdivision and asked him to work with Giusiana to get that second access road going.

Johnson said they need to put stipulations in the Zoning Code to protect the interests of the Fire Bureau, and other town departments. Also, he said he would like to see the Development Review Board back in existence and establish checklists before a developer submits an application.

Ceretto said the Town Code is outdated and inconsistent, especially with development. The Master Plan is not in compliance with Town Code. Everything is out of whack. Ceretto said the Codification Committee put a plan in place that called for a Development Review Committee, as Johnson alluded to. In the new laws, it basically says that this has to take place. I would advise our Board that I would like to see the codification come to fruition. It's a very good plan and the committee put a lot of effort into it. We need to be consistent and the only way to be consistent is to have a Code that is updated and follow it.

- Sale of 10.88 Acres: Newlin said the Board had some questions of the Golf Course Developer, Michael Dowd, who was unable to be here tonight. The Town Board would not be taking any action on this proposed sale of land.

The Supervisor said he would try and clear up a few of the questions brought up at the hearing. What will happen on that land and what exactly the proposed golf course might look like? Newlin said the plan that would take place now is a two-step process. The Town, if approved, would sell the land to the developer. They would then sell it to an “unnamed” partner who would develop the golf course. That developer would be just like any other developer. They would have to apply to the planning board, zoning board, fire board, etc. and submit a plan to whatever that land use would be.

Kilmer said that once the property is sold to the unnamed developer, it’s going to be their golf course. They would have to come in with plans for Planning Board review. That’s when you would get notification again – just as if someone was building a subdivision next to you. You get to come in and see the plans. That process will have to be followed.

As to the question of what the land was dedicated for, Kilmer said he did not believe the land was donated in-lieu of tax. I don’t believe it can be a tax deduction. It was in-lieu of paying a \$250 per lot recreation fee.

As for the conveyance of clay, Kilmer didn’t think the Board could put restrictions on it. The new Board would have to address that. In the original golf course construction, the mining rights were the developers, not the Town’s -- up to a certain dollar amount.

Kilmer said they should put a stipulation in the sale that if the property is not used for the purpose of a golf course, it should revert back to the Town. Newlin said that stipulation is already in place.

Kilmer said he wanted to set a public hearing on the sale of the entire 16+ acres. He said it was made clear to him by the developer that he requires the entire parcel.

Newlin said the Board has not received a formal request from Old Creek Development that they want additional acres. He has to send a letter requesting that. Should he wish to proceed, he suggested a motion to the affect of selling the 10.88 acres.

**Kilmer MOVED to sell 10.88 acres to Old Creek Development, Seconded by Langlois**, for discussion. Newlin asked for advice from counsel.

Leone said they should not vote on the sale tonight for a couple of reasons. He addressed some of the concerns raised by Ms. Glasgow. The first as to whether or not it is a charitable bequest that falls under the purview of the Estate Powers and Trust Law. In order for that to be, it would have to be done without consideration and it is my recollection from everyone that has spoken here, was that that property was conveyed to the town, in-lieu of a recreation fee. So, there was some consideration involved. Secondly, I don’t have the deed of conveyance here. My colleague has it in his office. To the best of our recollection that deed comes out of a corporation. If it indeed came out of a corporation, it would not come out of the Estate of Leo Giusiana. As a consequence, the estate’s Powers and Trust Law would handle equitability. I can’t tell you that I’m 100% sure on that issue but I can tell you that I’m relatively certain that that issue will be addressed.

The first issue as to whether or not the State Legislature would need to authorize the sale is a touchier question. If the Town Board has a piece of property that is no longer needed for a public use, that Town Board can convey that property by way of a resolution. The resolution is subject to permissive referendum but a simple resolution of the Town Board authorizing that conveyance after first declaring that it is no longer needed for public use can be done...

The issue that Ms. Glasgow raised basically gets down to two possibilities: 1) If indeed there is a public use for the property -- if it is currently involved in a public use, i.e. a municipality that has a public parking lot they want to convey to a developer -- that has to go thru the State Legislature. 2) The other issue would be if the deed of conveyance

restricted this property to a particular restriction. That is why we would want a little bit of time to take a look at the deed of conveyance to see whether or not there is any restriction and assuming there is not, the declaration by the Town Board that that property is not needed for any public purpose.

Langlois said the Developer has indicated that they want to buy the entire 16± acre parcel in order to meet the total acreage the buyer wants. They are quite willing to put in restrictive covenants to protect adjacent property owners. He suggested holding another hearing on the entire 16+ parcel. We owe it to ourselves and the Developer to set another public hearing for the entire acreage that we are talking about selling.

Newlin asked if it was advisable to set a public hearing which would require a legal description on land they haven't received a written proposal for.

Again, Leone said there is technically not a public hearing required to sell property but given the fact this has been part of the golf course development – they have had public hearings in the past on various issues, counsel thought it was best to do it this way. My concern would be when we publish in the newspaper we have a legal description to back up what it is we are looking to sell. I don't have that.

Kilmer said they could schedule a public information meeting prior to the next meeting. It doesn't have to be a public hearing. Leone concurred. However, he said it doesn't change the other issue whether or not the deed of conveyance to the town has a restriction and whether or not the town is prepared tonight without knowing what that deed says to say we don't need that property for public purposes, which is a prerequisite to selling it.

**Ceretto MOVED to table. Seconded by Kilmer and carried 5-0.**

• **Approval of Abstract: Kilmer MOVED to approve the Abstract of Claims, Nos. 3649 – 3988 and recommended payment in the amount of \$655,520.51 plus a post-audit of \$100,942.81. Seconded by Langlois and carried 5-0.**

3) Grants Update: Newlin noted a number of grants awarded to the Town with the assistance of a grant writer hired by the Town of Lewiston. These include a grant to the Lewiston Town Courts for \$3,818 to cover the cost of a metal detector and gateway for the courts. The Lewiston Fire Company #2 received a grant for turnout gear and air packs totaling \$122,000. The Clerk's office received \$11,254 from the New York State Archives to put into electronic format numerous archival and vital records. In addition, a grant was received for the purchase of a senior van.

5) Neg. Dec./Vista North: **Kilmer MOVED to issue a Negative Declaration for Vista North Subdivision, SBL#102-10-1-29.1, as recommended by the Environmental Commission. Seconded by Langlois and carried 5-0.**

6) Power Authority Update: Newlin noted that on December 7, the Niagara Power Coalition met to discuss further the terms and benefits of the recently signed agreement with NYPA. On behalf of the Town, Newlin said he was successful in insisting and agreed to by the delegation that separate checks be sent to each of the seven members of the Coalition. Lewiston, he said, would be in receipt of \$1.3 million of the initial payment of the signing bonus. He anticipated receipt of this money before year end.

Secondly, the Town Board has constantly insisted on an independent audit by a third party to look at how the monies have been spent in the Niagara Power Coalition thru the years. That's never been done until now. He, Mr. Dumphrey (Niagara-Wheatfield School District and Don Rappold (Lewiston-Porter School District) have been appointed to a finance committee to interview various auditors and CPAs. We can start next year with a fresh understanding of where we are financially. The monies in that organization are public monies. The public has a right to know how they are being spent. I don't think that has happened to this date as fully as it should have been.

There was a re-affirmation of this Town's position that the deal and its benefits to this Town are substantial. The value of the 6.5 mega-watts of power will be enormous. The Board will have to make a decision before year-end as to whether it prefers joining

in continued coalition with the other members as to a unitary MDA – Municipal Distribution Authority or go on its own and create its own MDA and serve the need of the Town that way. Either will be a viable object. There are just several factors that we need to consider. Some of that will be discussed in executive session.

7) Park/Escarpment Area: Kilmer gave a brief update on a proposed park in the Escarpment Area within the Bronson Drive area. It is on hold until a suitable parcel is determined.

8) Recreation Dept: Langlois referred to a request from Mike Dashineau for the use and services of the highway department for some minor, specialized repair work: Winterizing and removal of all water fountains and water sources within the Parks and the removal and storage of the Pletcher Road Park Batting Cages. **Langlois MOVED for approval. Seconded by Johnson and carried 5-0.**

9) WPCC: Langlois referred to a request from Tim Lockhart to transfer the balance of \$4,739.04 of line-item 8130.200-SS1 (Treatment & Disposal Equipment) and the balance of \$22,086.06 from line-item 8110.200-SS1 (Admin. Equipment) to line-item 8130.400-SS1 (Contractual). **Langlois MOVED for approval. Seconded by Johnson and carried 5-0.**

Secondly, the Grant Writer has located a grant that will cover 90% of the cost of a vacuum truck that would be shared by the 4 area municipalities. The grant is due by mid-January 2006 and requires a commitment for the remaining 10% of the expenditure to be covered by the grant recipient. The Sewer Advisory Board has approved this expense to come from fund balance of the WPCC (SS1). **Langlois MOVED for approval. Seconded by Johnson and carried 5-0.**

Lastly, was a request for approval to purchase 2 replacement pumps and related equipment for the Creek Road Pump Station. This is part of the Sanitary Sewer I&I Reduction and Creek Road Drainage Improvements capital project. The old pump will be held in reserve for back-up parts. The total equipment cost is \$19,636 and will be billed to capital project H-90. **Langlois MOVED for approval. Seconded by Johnson and carried 5-0.**

10) Town Hall Carpeting: The Supervisor referred to a request from the Town Clerk to purchase a 6'x32.9' runner from Mooradian Rug Co. for the main meeting room to protect the existing carpeting. Total cost would be \$830.59 with funds to come from 1620.400-A (Town Hall Contractual). **Johnson MOVED for approval, Seconded by Kilmer and carried 5-0.**

11) Scrapped Vehicle: Newlin referred to a request from Town Resident, Paul Brown, to purchase a scrapped 1996 Chevy Police Car in the amount of \$150.00. Because he is purchasing it for parts only, he does not require a Title on the vehicle. The vehicle has 171,225 miles on it and has many parts missing.

After determining that it was never declared as surplus, **Kilmer MOVED to declare the 1996 Chevy Caprice, bearing vehicle ID# 1G1BL52P7TR147450 excess equipment. Seconded by Johnson and carried 5-0.**

**Kilmer MOVED to accept the proposal from Paul Brown in the amount of \$150.00 to purchase the 1996 Chevy Caprice. Seconded by Langlois and carried 5-0.**

12) Town Hall Parking Lot: Kilmer said the Board has agreed to looking at Town Hall expansion in phases. He suggested that the new Board look at expanding the Town Hall Parking Lot. During Court Nights, cars are parked on the grass and along Model City Road, creating a liability issue. It should be the number one priority for the spring.

13) Highway Department Grievance: Due to the fact it is a personnel matter, the Attorney recommended it be discussed in executive session.

14) NIMS Resolution: Newlin said this would be deferred to a future meeting.

15) Budget Transfer: Johnson referred to a request from John Sharpe, Asst. Engineer to transfer \$1,000.00 from 1440-0200-A (Engineer Equipment) to 1440.0400-A

(Contractual) to cover the cost of computer supplies. **Johnson MOVED for approval. Seconded by Langlois and carried 5-0.**

16) Association of Towns Meeting: Johnson said he would like to make a blanket authorization for town officials and department heads to attend the Association of Towns meetings in February, 2006. **Johnson MOVED to approve attendance to the Association of Towns for Elected Officials and department heads and to have those attendees contact the Clerk's office. Seconded by Kilmer and carried 5-0.**

The Town Clerk can do an on-line registration for those attending the annual meeting.

Also, **Johnson MOVED to authorize the newly-elected town council to attend a seminar for new officials January 9-11 at the Rochester Marriott. Funds to be allocated from A-1010.0400 (Town Board contractual). Seconded by Langlois and carried 5-0.**

17) Pre-treatment Study: Johnson said they made a motion last month to allow the Engineers to continue the study at the WPCC. The motion was to finish the study as long as all the other members of the Tri-Community agreed to it. Because of some additional research needed -- legal issues -- he wanted to rescind that motion.

**Johnson MOVED to rescind the motion, dated 11/28, which authorized the continuation of the Pre-Treatment Study by the Town Engineer. Seconded by Ceretto.**

Langlois: This was first approved by the town board approximately 2-years ago. It was voted unanimously to conduct the study. It didn't get finished because we changed engineers... The work was 95% done but it wasn't finished mostly because of an engineering change. This was authorized a long time ago and should have already been completed. When we found it wasn't, we asked our Engineer to complete it and we voted on it again at the last meeting. It was approved 3-2 to finish the study. My view is that this study is very necessary because in the future, we very well may need to have this permit in place, as Mr. Lockhart has said, in case certain streams come to the plant that require this type of authorization. It may be a stream from St. Mary's Hospital. It may be a stream from dental offices. It may be a stream from any place. I know this came up again because somebody thinks that if we finish this study, CWM is going to be able to expand and they are going to be here forever. It doesn't mean we have to accept anything from anybody. That's a special vote that we can take at any time. To negate this now because of some political pressure that came along is the wrong thing to do. The right thing to do is to finish this study which we already authorized.

Kilmer: I had some discussions with some of the CAC members on this issue. The permit from RMU-2 has already been submitted. I have reservations on which way to go with this. If we're going to be able to send this to the river – the leachate – and RMU-2 gets approval, then we would be foolish not to finish this. At least then it's a revenue stream. But for now, the fear out there is that this is going to help the permit process (CWM)... There are multiple issues here. It's not just finishing the study. It's what people believe the study will do.

Ceretto: Awhile back, I voted along to go ahead with the feasibility study. When it came up again, there were issues. You have to do the best you can with the information in front of you. I believe I have more information in front of me at this time to vote against this feasibility study. I've talked to a lot of residents. Their concerns are increasing the discharge of a hazardous substance. I believe the community of Lewiston, Youngstown and Porter are behind us. It's difficult to turn away revenue but in this case I'm against the revenue increases in Lewiston. It's unacceptable anymore to receive "blood money". Because of that, you have to take a stance. In this case, I'm going with the residents of this area...

Newlin: I will be voting for this resolution since it is a motion to rescind. I do believe that the potential of Lewiston's treatment plant processing material like this does expose the Town to potential liability. Specifically, if something was found in the river that was above state regulated levels and the Town's plant had treated that, the Town would inherit liability. I will also remind the Board that this contract we have with the other three municipalities (T/Porter, V/Lewiston & V/Youngstown) indemnifies them

from that type of liability. It's a liability this town would incur solely. I think that is a terrible exposure to take.

Mr. Langlois does bring up a valid point that at some time in the future we may have a hospital or another business that may need the access to a pre-treatment program. I'm confident that if and when that happens, the Board at that time can act swiftly on completing this study but at this time I just don't see the need for that to take place.

**A poll of the Board on the motion resulted in 4 Ayes and 1 Nay (Langlois). Motion carried 4-1.**

**Langlois MOVED to enter into executive session to discuss personnel, litigation and contractual matters. Seconded by Kilmer and carried 5-0.** Time: 9:00 p.m.

Present: Newlin, Ceretto, Johnson, Kilmer, Langlois, Leone, Boniello, Elgin and Sean Edwards

**Ceretto MOVED to exit executive session and reconvene regular meeting. Seconded by Johnson and carried 5-0.** Time: 10:30 p.m.

Executive Session Action:

- Discussed several personnel issues.
- Authorized Supervisor and Town Attorney to attempt settlement of personnel claim.
- Discussed possible litigation/settlement with previous engineer and Niagara Power Coalition.
- Scheduled public information session for Thursday, December 29<sup>th</sup> beginning at 6:00 p.m. to consider selling the balance of 7+ acres of town-owned land to Old Creek Development.
- Authorized Girasole Appraisal to obtain restrictive appraisal of 7+ acres of vacant town-owned land located west of Creek Road and located in the north end of the Lewistowne Park Subdivision, at a cost not to exceed d \$500. Motion passed 5-0.

**Ceretto MOVED, Seconded by Johnson to adjourn the worksession. Carried 5-0.**

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk

Executive Session Minutes taken by:

Dave Boniello