

**Town Board Meeting**

**September 24, 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; Police Chief Salada; Finance Officer DiRamio and Town Clerk Brandon. 3 press reps and 9 residents.

Supervisor Newlin opened the meeting at 7:25 p.m. The Pledge of Allegiance was recited and a moment of silent reflection was offered in memory of Sally Simon, Kate Doyle & Charles Mosher.

**RESIDENTS:**

Richard Burnham of 1785 Saunders Settlement Road. I want to discuss the current condition of the Colonial Village Park which I think is in disrepair. I read the minutes where monies have been allocated for resurfacing of the shelter. I have a list. The park signs are unreadable and you cannot tell when you are supposed to be there and when you are not. The backstop of the baseball diamond seems to be in extreme disrepair which could be either take it down or because there is no baseball diamond there depending on the number of people that frequent the park or not. Construction of the new park benches are not complete and it appears there are new benches but the supplies have been left behind such as the supports and some cinder block which I was tempted to bring down but....and some park benches have no seats. The water fountain in back near the softball diamonds does not work. I am not sure what the shuffleboards are anymore. The growth of plants underneath the walkway presents a tripping hazard. I feel it needs to be dug up and resurfaced. I see by the minutes that the concrete around the gazebo has sunk around some of the pillars and that represents a tripping hazard. The finished painting of the small gazebo in the front of the park and it appears that when they painted it, it looks like they had a gallon of paint and they missed a few spots. These are just a few of the issues with the park and I frequent the park 3-4 times a week along with family members and other people that do use the park. I think it has gotten to the point where it is and it is in disrepair and maybe it needs a whole agenda addressed for it.

Amy Witroyl of 4726 Lower River Road. This is the first opportunity that I have had to come before the Board since the unfortunate veto of the Hazardous Waste Bill which the Board had supported and I thank you for that. Regrettably, Gov. Spitzer vetoed a simple one sentence Hazardous Waste Bill that would have protected our health and economy. His reasons were erroneous, unsubstantiated or perhaps at best a secret. This community was never even given supporting detail which we hope someday it will be provided. I haven't seen it yet but I am told that there was a recent letter in a local paper criticizing me for failure to support a bill by Sen. Maziarz which supposedly would have sunsetted hazardous landfilling in a few years. That statement was incorrect. The Maziarz bill proposed sunset only untreated hazardous waste which DEC already outlawed nearly 15 years ago. In addition, the bill eliminated the requirement for the DEC to consider the type of hazardous waste facility when evaluating equitable distribution when siting a facility in New York. We home the only commercial toxic landfill in the state and this elimination in the Maziarz bill would have made it easier for CWM to expand. In 2005, a law supported by the Lewiston Town Board was passed to prevent any new toxic landfill until a siting plan was adopted. While Sen. Maziarz and Gov. Spitzer are anxious to complete a plan per his veto memo, however, today adoptions of a plan will be nothing but fees since everyone's request for a new toxic landfill. Interestingly, Mr. Spitzer's DEC issued a surprise press release 2 weeks ago that supposedly requires CWM to identify radio active chemical contaminates on their property and clean them up. But under this new DEC plan CWM is not required to investigate nor move contamination in the areas that DEC already knows has problems. Sampling only small portions of ground water wells just for one example in a location irrelevant to radiological history of the site is not my idea of a good plan. Rather it is a casino evil approach to a problem that requires comprehensive investigation which even DEC

concedes this is not. The DEC and CWM have rolled over this community for decades from violating the 1972 Health Dept. order to permitting new landfills without a siting plan. But thanks to the Town of Lewiston partnership with Niagara County in the past 3 years these violations have stopped. The CWM application for a new toxic waste landfill is almost 4 years behind schedule because for the first time the DEC must obey a law thanks to the Town of Lewiston's partnership with Niagara County. CWM air testing was discontinued 10 years ago while CWM was still exceeding State standards for carcinogens. With your help this is going to change. As recently documented by the DEC, PCB's contamination leaving wide spread on CWM property after 25 years of pollution for that facility. This too is going to change with ?????? the Board. As I said before trucks carry dangerous materials to CWM which back up on our 1-190 exit ramps is not my vision of Lewiston nor do I believe it is the vision of most Lewiston residents. With your continued support we will realize our vision of Lewiston where cars carry people to shop, to visit the farmers market, go to the restaurant or the theater, play golf, go fishing or just think returning home from work to the home that they love. Thank you all.

Benjamin Sicoli of 4701 Jason Court. I am here to speak about an agenda item with regard to the Board's actions on a couple of lots that border Northridge Drive on the east side relatively to the issuance of building permits etc. I am not sure if you all know that there has been a quite a long history of this issue dating back to 2004-2005. Apparently, the owner of the property to the east of Northridge Drive is proposing a development of some sort and from the best of my knowledge the Town has issued PIP permits which are public improvement permits for water lines, sewer lines, roads etc. It is my understanding that the permits were issued to this individual or his company whatever based on the fact that he was to own all of the property that the PIP's are addressing. If you don't know, that is not the case. I am speaking mostly on behalf of my father, Benjamin Sicoli which is here today. If you don't know there have been several attempts by us to stop the construction of roads, water and sewer lines etc. there. The Lewiston police have told us there is nothing we can do other than to go to court on it. This whole issue is in fact in litigation and my Dad just found out about this issue being on tonight's agenda about 1 ½ hours ago. Obviously, with it just being 1 ½ hours ago it is very difficult to prepare for proper rebuttals with what you have. With the fact that it is in litigation and the fact that it was short notice that this was happening tonight, we respectfully request that this be tabled for a future meeting.

Atty. Tom Augello of 3653 Lower River Road representing Dominick Massaro who is the developer of the project. There is litigation over the ownership of one portion and I believe Mr. Sicoli misspoke. When the application went it for the project it is ownership control and my client believes has and has had over this disputed portion. The matter is in court and the courts will decide and not chose for the Town Board to decide that particular issue. That is for the courts and so we think we have satisfied Mr. Leone's concerns about the legality involved with the Town and unfortunately possibly having to get involved in a suit. We hope that is not the case. But, I think we have allayed that fear and I have talked with Mr. Lannon about some of the concerns about the roadways. So I think what the Town really has to consider is the granting of the permits subject to holding back the certificates of occupancy subject to the road dedication. Thank you.

AGENDA:

Newlin: We need to have an executive session regarding personnel matters.

Johnson: I would like to add the 4 fire company's fire contracts.

Newlin: I would like to seek the private advice of counsel the matter that was just discussed regarding the Sicoli/Massaro issue.

Leone asked to add a matter in litigation.

Bax: The Modern contract regarding the discussions we have been having with them and the constituents.

**Edwards MOVED to Amend the agenda as presented. Seconded by Palmer and carried 5-0.**

MINUTES:

**Johnson MOVED to approve the minutes of 8/27/07 RTBM; 9/1/07 Special Mtg. re: Bldg. Inspector and 9/10/07 Work Session. Seconded by Bax and carried 5-0.**

POST AUDITS:

Edwards thanked Councilman Palmer for doing the August audits in his absence.

**Edwards MOVED for approval of the following Post Audits: Home Depot \$28.83; Office Max (HSBC-Business Solutions) \$352.44; Radio Shack \$39.98; Sam's Club \$1177.60; Art Huntington \$75.00; Artpark & Co.; \$29,755.53; NYS DEC \$7500.00 and Niagara Power Coalition \$12,150.49. Seconded by Johnson.**

Bax inquired about the Art Park payment.

Newlin said that is the quarterly payment within the Modern agreement subject to the Town's pleasure re: tipping fees and it goes to the children's programs. The amount has been going up based on Modern's business increasing.

**Motion carried 5-0.**

OLD BUSINESS:

1. Northridge Drive Lighting:

Lannon stated that he is waiting for National Grid and has been in contact with them about Paddock Lane and Riverwalk lights regarding installation.

Johnson asked about sending a resolution asking that the process be speeded up.

Lannon said there is a resolution authorizing these.

2. Set Public Hearing/Town Parking Violations:

Newlin stated that discussions have been to get the parking fees the same as the Village.

Leone: I made the changes that were suggested by the Board at the last meeting and a copy was sent to the Justice Court and the Police Dept.

**Edwards MOVED to hold a Public Hearing on October 15, 2007 at 6:45 p.m. re: Town Parking Violations. Seconded by Johnson and carried 5-0.**

CORRESPONDENCE:

1. Request from the Receiver of Taxes & Assessments to place the unpaid water and sewer accounts for the Town of Lewiston on the 2008 Town and County Taxes. The breakdown is as follows: Water \$85,310.86; Sewer (Master) \$57,355.73; Sewer (South) \$9,220.70 for a total of \$151,887.29.

**Johnson MOVED to place the unpaid water & sewer accounts on the 2008 Town and County taxes. Seconded by Bax and carried 5-0.**

2. Request from Jack Lindelow, Project Manager, Legacy Drive Development for building permits for Bldg. #1 (731-735 Legacy Drive), Bldg. #2 (734-736 Legacy Drive), located on parcel 101.12-1-9.1 and Bldg. #6 (787-791 Legacy Drive), located on parcel 101.12-2-8. No Certificate of Occupancy will be issued until all conditions and laws of the Town of Lewiston are met.

Newlin: We will meet in Executive Session unless there are any questions from the attorneys. Perhaps we will move on it tonight or we may not.

NEWLIN:

Water Improvement Public Hearing:

Lannon: The first action will be the issuance of a Negative Declaration in accordance with SEQRA.

**Johnson MOVED for a Negative Declaration for the Water Improvement Project. Seconded by Bax and carried 5-0.**

Lannon said the next step is the approval of the project by the Board. The Resolution & Order after the Public Hearing approving the increase and improvement of

facilities of the Town of Lewiston Water Improvement District which can be read or incorporated into the minutes.

**Bax MOVED that the document in its entirety be put into the record and that project be approved as specified in the document. Seconded by Johnson and carried 5-0.**

Boniello asked that the Clerk file this document with the Niagara County Clerk's Office.

**RESOLUTION AND ORDER  
AFTER PUBLIC HEARING APPROVING  
THE INCREASE AND IMPROVEMENT OF  
FACILITIES OF THE TOWN OF LEWISTON  
WATER IMPROVEMENT DISTRICT**

WHEREAS, the Town Board of the Town of Lewiston (herein called "Town Board" and "Town", respectfully), in the County of Niagara, New York on behalf of the Town of Lewiston Water Improvement District (the "District"), in the Town, has directed CRA Infrastructure and Engineering, Inc. a subsidiary of Conestoga-Rovers & Associates, a professional engineering firm licensed in New York, to prepare a map, plan and report for the District water system improvements, along portions of Mountain View Drive, Woodland Drive, and Forest Road, including but not limited to, the installation of approximately 10,000 linear feet of new 8-inch PVC watermain, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "District Improvement"); and pursuant to the direction of the Town the Engineer has completed and filed with the Town Board such map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$1,600,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$1,600,000, offset by any federal, state, county and/or local grants; and

WHEREAS, the Town Board has given due consideration to the impact that the increase and improvement of the facilities of the District may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk.

WHEREAS, the Town Board issued an Order at its August 27, 2007 meeting calling for a public hearing to be held at the Town Hall, Lewiston, New York on September 24, 2007 at 6:45 o'clock P.M. (prevailing time) to consider said increase and improvements of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF LEWISTON based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to at the estimated maximum cost of \$1,600,000; and it is hereby

DETERMINED, that the parcels and lots of the District shall be benefited by said increase and improvement of the facilities of the District; and it is hereby

DETERMINED, that all parcels and lots benefited by said increase and improvement of the facilities are included in the District; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$1,600,000, said amount to be offset by any federal, state, county and/or local grants, and the costs of said increase and improvements of facilities shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by the law, and it is hereby

FURTHER ORDERED, that within ten (10) days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Niagara a copy of the Resolution and Order, certified by said Town Clerk.

**Johnson MOVED to approve the Bond Resolution authorizing the Increase and Improvements of the project. Seconded by Bax and carried 5-0.**

**BOND RESOLUTION DATED SEPTEMBER 24, 2007 OF THE TOWN OF LEWISTON TOWN BOARD, AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN OF LEWISTON WATER IMPROVEMENT DISTRICT AT A MAXIMUM AMOUNT NOT TO EXCEED \$1,600,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,600,000, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATION ISSUED THEREFOR, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

WHEREAS, the Town Board of the Town of Lewiston, Niagara County, New York (the "Town"), has determined to proceed with the Increase and Improvement of Facilities of the Town of Lewiston Water Improvement District (the "Improvement Project"); and

WHEREAS, the Town Board desires to undertake the reconstruction of and construction of the Improvement Project, along portions of Mountain View Drive, Woodland Drive, and Forest Road, including but not limited to, the installation of approximately 10,000 linear feet of new 8-inch PVC watermain, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto (the "District Improvement").

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Improvements.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the Increase and Improvement of facilities of the Town of Lewiston Water Improvement District (the "District") in the Town of Lewiston. The maximum cost of said purpose will not exceed \$1,600,000.

SECTION 2. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$1,600,000 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local grants. The cost of such improvements is to be paid by the issuance of serial bonds, and by the assessment, levy and collection of assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The expected source of funds to be used initially to pay for up to \$1,600,000 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has issued a negative declaration determining that the undertaking of the Improvement Project will not have a significant effect on the environment.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

SECTION 14. This Resolution is effective immediately.

**Johnson MOVED that the Clerk be authorized to place the legal notice in the Niagara Gazette and the Sentinel. Seconded by Bax and carried 5-0.**

Newlin: Some of the homes on Mt. View Drive and Forest Road are in the Village and with this first project it will give us an opportunity to spend some of the money to fix the Village's infrastructure. There are about 10-14 houses there.

Legal:

Newlin said we have discussed several times the issue of the opening of the Patrick Development project off Hillview up to Cliff Rd. We have had very patient residents regarding the unattractive entrance and hope that it would be resolved by Patrick Development. Our Engineer and Attorneys have had ongoing discussions with them and we have not seen any resolution. I would like to send the Engineer to do a scope

of work there and get 3 informal bids and then get a contractor to take care of the issue before bad weather is here.

**Newlin MOVED to permit the Engineer to do the scoping work at the Patrick Development site and to obtain 3 informal bids to complete the job. Seconded by Bax.**

Edwards: I don't think that the scope of work is that extensive but can we expedite this and get it done by mid October?

Lannon said he would get someone out there this week with consideration for the next meeting.

Boniello asked if we could lien the property. (Yes) If so, we should have a resolution to that affect.

**Bax MOVED to proceed with a lien on the property. Seconded by Edwards and carried 5-0.**

Newlin said this Board is not going to look favorable upon any further building permits until we get cooperation from the developer.

Edwards asked the Engineer if there was a not to exceed number so that we can expedite this tonight. (Engineer and Attorneys conferred at this time).

Bax: Maybe we could come up with a policy in the Town with respect to new developments as whether we are going to lien the property a part of the policy on new developments.

Edwards mentioned that the Town of Orchard Park held in escrow funds for a year for a landscaping project to insure that the landscaping was still thriving and alive and the money was refunded. I believe it is in the Planning Bd. review process. (Edwards to get info on this) I think that procedure should be in place.

Bax: We should come up with a policy so that when we have our department head meeting again as far as development within the Town that within the book as to what is expected of the developers.

**Bax MOVED to authorize the Supervisor to sign a proposal or contract with the scope of work outlined by the Engineer not to exceed \$15,000 with the advice of the Attorneys. Seconded by Edwards and carried 5-0.**

Leone said regarding the costs that if you covered it in the motion and resolution, whether it or not it works out remains to be seen.

Newlin: We did quite a bit of paving this year due to good weather; we need to transfer funds to cover those costs.

**Edwards MOVED to transfer \$117,000 from H-99 Reserve Fund to the H-72 Infrastructure Acct. Seconded by Bax and carried 5-0.**

**Edwards MOVED to approve the expenditure of \$117,000 from the H-72 Acct. to cover paving costs. Seconded by Bax and carried 5-0.**

Boniello stated that he met with CRA and an attorney from Erie Cnty. regarding the Drainage Coalition. A proposal of the law will follow.

Also, pertaining to Councilman Palmer's request about the number of dogs per household, I will be sending out info.

Palmer said we are looking at the number of animals (dogs& cats) and specific areas i.e. farms, kennels.

Bax asked if the recent issue with a resident in the Colonial Village area had been resolved.

Brandon replied that the individual had licensed the dogs and has appeared in court several times and we are addressing the situation.

Edwards asked the matter of the fence be referred to the Building Office for review.

#### Re-Licensing Update:

Newlin: The Power Coalition has been having ongoing meetings with the Power Authority regarding how the projects will be approved. The first Greenway money should be available for the Standing Cmte. and as soon as we get the criteria of how the project will be accepted we will inform everyone then. Lewiston will be submitting a number of good projects. We have a history of good recreational infrastructure and I think no one will have a problem with the good projects that will come from Lewiston.

#### Power Credits:

We have been doing informal surveys as to those who have been getting discounts from the power program. It will be on the last line of page 2 of the bill. Those savings are in the 25% range off of the electrical bill. There are 6500 residences in Lewiston (20,000 residents) and I am sure that National Grid will have a few errors in their billing. Hopefully, the residents who don't get it will call Town Hall and inform us. We are submitting those names daily to National Grid.

Part of this issue, is making sure that we have enough public outreach so that people have as many opportunities as they can to realize that they are entitled to this credit and are getting it. Everybody who deserves it should be getting it. Other folks have been mentioning to me that one way to help get the word out and also to justifiable celebrate this accomplishment of the Town has reached over the last 4 years is to consider some sort of community picnic or festival or barbeque. Wheatfield has been doing this annual for years but I think it might be something we could consider. I don't expect a motion on this tonight and this is for the Board and the public to consider. I held enough money in reserves for the completion of this deal which mainly went to attorneys. I would like to the Board to come up with some ideas how we might be able to have some sort of celebration while the weather is pleasant. I am going to contact National Grid & the Power Authority who are partners in this process and see if they would participate. It is a very successful outcome and we are the only Town in the State to use re-licensing megawatts to reduce residential bills and I hope we can fetter some sort of justifiable celebration.

Palmer: I would disagree with the use of Town monies for this type of celebration. I am sure there are better things we can spend money than some kind of a picnic and I have to question your motives for any kind of a celebration of this type incurred while the weather is still good being that the election is coming up on November 6<sup>th</sup>. It just reeks of patting ourselves on the back and I just don't agree that is an appropriate use of Town money.

Edwards: I disagree with Mr. Palmer to one extent. We have worked very hard and we have just gotten the settlement in September so to celebrate and educate our constituents on how this is working before we got the settlement would be premature and secondly my suggestion to the Supervisor would be have some of our office staff as well as National Grid staff there to explain the billing and if people didn't receive their discount power that they would after attending this celebration/educational event. I don't have a problem with it.

Newlin said that is why we are having everybody's thought plan and we are not saying it is going to be done. It is something to consider.

Johnson: I think it is a good idea to have an open house and we should probably do it once a year anyways for some people who can't make it a Town Board meeting that would like to come speak before the Board. At one point we did move around the Town but if we can get a rep from the Power Authority and National Grid to educate these residents. Many of our neighboring organizations i.e. Modern, CWM do have open houses. I would think we could have an open house at the Senior Center with the reps. I don't think it would cost a lot for simple refreshments. I disagree about the political thing because I think we need to be involved in it as well. You are part of the Town and you are hopefully continuing on and taking care of the monies to be spent from the Power Authority. I think it is a great idea for an open house.

Bax: I think it is good to educate as to what they are getting but I am curious as to what the extent of the education would be besides what the figure is that they are going to be getting back on their bill each month. I think it is something worth celebrating but maybe the forum and the expenditures to celebrate it. Maybe we have to just mull it over in our minds a little bit more as to the best and most effective way to make sure that the constituents interests are observed as opposed to us patting ourselves on the back. I think the educational aspect of it definitely need to come through but I am not sure what other things we can educate the public to as opposed to what they are going to be saving. Besides the fact that they are saving 20-25% on their bill, what more can we tell them?

Johnson: That is a good point and that is where you can tell them that the \$800,000-\$850,000 that we put into in the Capital Improvement area that we are already spending money up on the Mt. View Drive area for the water lines and we are going to do some things in the Village. People on the streets are commenting saying "we didn't get enough or we didn't do this etc and saying that they don't know about it".

Bax said maybe if it is not this year and if we had not necessarily an educational thing for National Grid to come in and educate the people...maybe if we had a public forum where people could come in and we could show them what we have done with their money each year then that would be something where I would say we are not only keeping ourselves honest but are keeping future Board members honest because when that stops it is going to send a signal in and of it's self that what is going on at Town Hall. I think people should be aware of what is happening especially with this new money.

Newlin: With regards to timing, I can assure you there is no political timing there. FERC signed the deal on September 1st ...that is when the acceptance of the license began. The fact that it is in Sept. or Oct. is nobodies fault but that is the calendar that was imposed on upon by the U.S. federal government. Secondly, a lot of people have been telling me throughout the years that you are never going to be able to reduce residential rates. I was worried about hearing people saying it could not be done. But now, luckily that we have seen some bills it actually has happened. I think going along with what Mr. Edwards said celebrating any earlier would have been premature. Now we see that we are going to be getting these discounts and it makes me feel a lot more creditable. When it comes to Mr. Bax' point about education, I mentioned this in Board meetings before with one way I would like to see the Town try to educate the population is with regards to energy efficiency. This 6 ½ megawatts of cheap hydro power is the largest amount that any town, city or village is getting in the entire State of New York from the Power Authority. We would be short sided and in my opinion foolhardy if we squandered that resource. You can image people thinking let's use more electricity since we don't pay as much. We should take to heart the lesson of what happen when gas prices went down to 88¢ a gallon. People tended not to save on the cheap gas and tended to buy bigger cars. We are now paying for that at \$3.00 a gallon gas prices. I would like to see the Town pursue in the months and years ahead is an active education program as to how energy can be used wisely and toward that end I think there couldn't be anything better than this municipality to enter into what is called an energy incentive program where we encourage good behavior on behalf of the consumers. This is done in

towns bigger and smaller than Lewiston across the United States. This would encourage families to go out and buy energy star appliances and the Town could consider giving them a rebate and that way they are putting money back in their pockets and we can be sure that we are not fettering away an increasingly valuable commodity in the years to ahead. No matter what progress we see on the development of electricity we are going to be hard pressed to come with any natural resource production of energy that will compete with the 1 cent or 1+ cent production costs of each kilowatt that is generated by this power plant. So, trust me when I say over the next 50 years that is going to be very lucrative commodity for this Town to be in control and we have to make sure that we make the best use of it. Because it is the campaign season, I have been going door to door with people and I am surprised that after trying to get the word out over the last 3-4 years, a good size of the population 25-30% are not aware of the credit. Despite our best efforts, not everybody knows that they should be getting it. Anything we can do, I will have an open ear to that and I think if we can get the word out I think it would be a smart move. If you look the benefits over 50 years it is worth more than 100 million dollars. Nobody could accuse me in my 4 years in this office as being loose with the public purse. I hope we all will consider it over the next several weeks and discuss it again.

Palmer: As far as the rebate, I would like to know more about that before go down that road. The federal and state government already offer income tax rebates for energy compliance in certain areas and our job here is to run the Town in the most efficient way possible. I wonder sometimes what we are doing to government by getting involved in energy star rebates. This is the Town of Lewiston and our job here is to make our services available to everyone in an equitable manner and provide new services the cheapest way possible. So, I guess I am a little confused and I would have to hear a whole lot more about this whole rebate program. I think we have already done as mentioned by the Supervisor the tremendous job with getting the electricity money back into the households and maybe we can do a better job with educating our residents but it just started this week. I am not surprised that there would be a 25% of people who do not know about it. Perhaps 25% of the people did not get it. The newspapers have done a good job with the publicizing what the Town has gotten and I want to be very careful about any kind of grandstanding that might take place over the next few weeks. If we want to do something to educate the public, educate the citizenry let's do it after the election maybe at the Senior Center and invite everyone and have refreshments. Let's not mix up the two. You have done a great job, Mr. Newlin. There is no doubt with attending a lot of meetings and been involved with for quite some time but let's just leave it at that.

Newlin said I appreciate your comments, Mr. Palmer but I do take issue with the words of "grandstanding" but I guess what I would like to say is that for better or for worse and I think for the better, cheap hydro electricity will be a commodity that this Town of Lewiston controls for the next 50 years so that has put us de facto in the energy business and we are going to have to educate ourselves better on that. Since it is a commodity the Town owns, at some point in the future, future Town Boards can direct it away from the residents and put it in some other use that they may deem necessary. I hope that doesn't happen. Since the Town Board does have sole control over how that 6 ½ megawatts will be expended, I think it behooves us as a public body to try to promote the healthiest and best public use of that resource. I would say that conservation especially in times like these is a pressing issue that government will have to be discussing and debating and dealing with for the next 50 years. It is costing this country a terrible amount and now we pay for high energy costs in blood and in treasure unfortunately. If Lewiston can be a beacon of light to help the residents understand it might be a good example for the rest of the state and country as to how to use energy wisely, I think that is more kudos to us. There are 2 things served...one is the Town's public interest since we manage those 6 ½ megawatts and secondly those rebates would help put money back in people's pockets. We live in a Town where I am sure Mr. Palmer you have found out that high taxation still remains one of the biggest issues you are going to hear from Lewiston residents. The Town fortunately has not had a Town tax for the last 3 years but we can't control what those

costs and taxes will be when it comes to county property taxes or school taxes. The Town now has interests in the control of a commodity of cheap hydro power and I think we should encourage people and show them the ways where they can save more money in the future with good behavior. I brought this up before and did not hear any objection to it then, but I will try to get information to us and show you examples of other towns that do this.

Finance: Transfer of Funds/Senior Center:

**Johnson MOVED to transfer from the Contingency A Fund to A-7630.400 Senior Center Contractual \$2980.48 for the sealing of the driveway at the Senior Center. Seconded by Bax and carried 5-0.**

Resolution/Justice Court Assistant Program.

#### RESOLUTION

WHEREAS, the State of New York, Court System is soliciting applications for Local Governments under the Court Assistance Program to assist local Justice Department with needed equipment, automation, furniture, supplies and training.

WHEREAS, funding is available under the New York State Court System to facilitate local efforts in upgrading the Town's Justice Department.

RESOLVED, that the Supervisor of the Town of Lewiston is hereby authorized and directed to file an application with the Justice Court Assistance Program on September 24, 2007.

**Johnson MOVED to approve and authorize the Resolution as presented. Seconded by Palmer and carried 5-0.**

JOHNSON:

Fire Company Roster Criteria: At the Fire Bureau meeting this week I was told that they do a background check on the individuals and then approval is given by them and the Niagara County Fire Board. They are also required to have a physical.

In the Executive Session, I would like to discuss the fire companies' contracts after meeting with them after the Fire Bureau meeting. Mr. Leone also attended. They do have some concerns. However, they are happy with the water model program and I will be bringing to your attention areas other than Mt. View Drive. I have received comments regarding the budget that we should discuss perhaps at a work session.

Newlin commented that there are some department heads that they will be meeting with along with organizations. They may want to make a presentation at a meeting.

Assessment Review Board Appointment:

**Johnson MOVED for the re-appointment of Domonic Balassone to the Assessment Review Board for a term to begin October 1, 2007 to September 30, 2013. Seconded by Bax and carried 5-0.**

PALMER:

No liaisons reports at this time.

BAX:

I have nothing to report on the Wind Energy, Tower and Recreation Committees at this time.

Modern Issue:

I am the Chairperson of the CAC which serves as an advisory committee and is a citizen's informational group. I received a survey in the mail recently with respect to my position on Modern. I don't think that it represented the issues correctly. I don't mean that with any disrespect, I just think that the person who constructed the survey

didn't understand the questions that we are faced with as a Board. I would like the Town Board's permission to consider or at least explore the idea of creating a CAC with respect to Modern. Not only, so that people will have another opportunity to participate, but so that we can get some of the constituency education as to the issues that we face as a Town Board and maybe to neutralize the polarized issues that people see both in the paper and when they come to these Town Board meetings and hear one side or the other. As everyone is aware we have had 2 public comment periods where the audience was either polarized in favor of Modern or against. I don't honestly believe that any of them understand the issue that we have to face. There are several problems that face the Town that everyone wants resolved. Yet, no one will allow the latitude within which to resolve them and I would like to with the authority of the Board in exploring this. I would like to reach out to the authors of that poll so that maybe they can become part and maybe one part of the final group. I think it should extend to Sanborn because Sanborn residents receive several benefits from our deal with Modern but I think everyone should be a participant. I am not exactly sure how to do that but I am just broaching the subject with this Board with hopefully to get your approval and then I can report back at the Oct. 15<sup>th</sup> meeting.

Newlin said he would work with Mr. Bax as I have a pretty well defined position on it. Some folks are very concerned about it. They have a fairly strong grasp on most of the issues but it is very complex and it has been a relationship that evolved over the last 20 years. If we had some sort of citizen advisory group...we have to figure out exactly what the mission is for that group.

Bax: I agree. I think the one thing that I have identified and I don't mean any disrespect by anyone who comes here and voices their opinion...for what I have heard in just as a lay person, as a councilman, as a resident of the Town of Lewiston, I hear a number of problems. People have issues with the smell, with the traffic, with safety yet we have absolutely no remedy within which to explore resolving those issues for these people. I think a number of people who have come to me, said "vote against Modern because I don't want the traffic and am concerned for my safety or I don't like the smell". I don't think these people really understand that we cannot entertain the Modern issue at all and they would still have the same problems that they had yesterday, tomorrow. I think that if we really want some action, we want some resolution. We want to make the Town of Lewiston a better place to live and Modern as we know is a foregone conclusion and they are going to be here based on the contract that was made by prior boards. We have to have a dialogue and I think possibly the main goal would be that if Modern wanted to effectuate an expansion, an increase in traffic that it would have to go to the CAC for Modern prior to coming to us as a resolution for us to handle. It would have to involve all constituents and that is why I don't want it to be a polarized anti Modern group. I want it to be a balance group that represents the constituents of the Town of Lewiston that can have a meaningful dialogue with Modern. I as the Chairperson of the CAC have had some very contentious meetings where there is a lot of suspicion and cloak and dagger going on. I would rather that this organization be a true facilitator of both constituents concerns and Modern's legitimate goal to expand their business or do business within the Town whether it is expanded or not.

Johnson: If that is the intention to do that, I would prefer to have one of the attorneys on that board because we are under contract with them for both financial and monies to give out to the other organizations. Under the contract we have to be very careful how you answer because if you jeopardize your contract you are going to get sued by not only the residents but by everybody. I would be cautious on how you set that up and make sure the contract doesn't say you can't do that. You have to be careful about that.

Edwards: I too have received a survey and I couldn't agree with Councilman Bax more. This group is very active, very well versed. I hope that they are proactive and I would be happy to sit down with this group and try to find some kind of resolve to the existing problems before we look at any more. It is a great idea Councilman Bax and I would be glad to help.

Palmer: The survey...like you said most people come to meetings and voice their objections to the plan and I did respond to the writers of the survey by e-mail. I personally don't feel that getting answers to questions on a survey is the appropriate mechanism for responding to such a huge issue that affects so many people in this Town. So, I agree with Councilman Bax that we need to establish dialogue with Modern and we need to solve the problems that we have here already especially before we consider any other kind of move to expand truck traffic in this Town but I am certainly not in favor of that. But, what we want to do is maintain a good honest open dialogue with Modern. They are not going anywhere. Let's make it better for everyone.

Johnson: The Chief of Police has been monitoring that Creek Rd. Ext. area that was a topic that was talked about. The truck traffic...that is a state road and I don't know how you get around that. Modern has directed their trucks to come around the loop. I did see trucks coming down there that were probably going to Modern and coming off of the bridge and I have had residents call me about the smell etc. These are trucks from another carrier and I am not sure if Modern has the authority, but it would be a nice gesture if someone notified Modern now and ask if they could route those trucks coming down Creek Rd. Ext. is not one of the routes that they had. I am not sure who has jurisdiction over the truck company coming in. That kind of dialogue needs to be addressed both ways. This is a huge issue that isn't going to be done overnight.

Newlin said I think part of the sentiment of Mr. Bax is that proposal that which I agree with is that a lot of this has to do with public outreach and I have tried to speak on this before with regards to re-licensing/power credit matter. I think that you find that as more people become educated and knowledgeable about this their opinions are more likely to become more stronger or more entrenched as to what they already feel. We do our best to publicize things from changing the dog law to the farming issue etc. but there are a lot of people who just do not know all the facts about any particular matter be it big or small. If we can set up some sort of community communications committee that examines these issues in depth it will help make a stronger basis for decisions for anything this Board might consider and help educate the public. I know a lot of people are not aware of the ins and outs of the details of the program and what the new proposal is. I think if more people get out and understand it the better off we will all be.

Bax said he would welcome any individual in the public to contact him personally expressing an interest. I will take the first step in contacting the author of the survey because they are obviously organized and they may have a number of interested individuals who would like to start that building process.

EDWARDS:

Library: We are currently resurfacing the parking lot and should be completed this week and the new drain receptors are in. It was a joint venture with the Village taking care of the curbing and the sidewalk repairs.

Drainage/Road Projects: The Lewistowne drainage project is just about complete. Our paving is being trimmed up from this past summer. The crews have preformed wonderfully. They are getting ready to install the sidewalks in Sanborn from the Historical Museum to West Street.

**Johnson MOVED to go into Executive Session for a litigation matter per Atty. Leone; Pending Fire Contracts; Personnel Matters and also private advice of Counsel re: Sicoli/Massarò matter. Seconded by Palmer and carried 5-0.**

Time: 8:45 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon

Town Clerk

**Executive Session            8:55 p.m.**

Present: Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Boniello\* and Chief Salada\*\*. (\*\*left early)

Issues Discussed:

1. Current litigation status and pending issues.
2. Personnel Issues re: Town employees.
3. Fire contract negotiations.

**Motion to exit Executive Session made by Edwards, Seconded by Johnson and carried 5-0.**

Time: 10:10 p.m.

Respectfully submitted by:

Carol J. Brandon

Minutes taken by:\*

Atty. David Boniello



