

**REGULAR TOWN BOARD MEETING August 11, 2003 7:00 p.m.**

**PRESENT:** Sup. S. Maslen; Council Members Ceretto, Johnson & Langlois; Town Atty. E. Brydges; Dpty. Town Atty. J. Leone; Eng. R. Lannon; Finance Officer E. Evert; High. Supt. S. Reiter; Adm./Op. T. Lockhart; Police Chief R. Winkley; Tax Receiver J. Stephens; Dpty. Sup. C. Stojak and Town Clerk C. Brandon. 4 Press and 25 residents.

Absent: Councilman Kilmer.

The Supervisor opened the regular meeting, followed by the Pledge of Allegiance and a moment of silent reflection followed.

**RESIDENTS:**

Roy Owens of 5963 Mayflower Road. This concerns the sewers on Mayflower Road and also drainage. I have been calling for over 2 years to have my culver pipe put back in that was dug out. I have water sitting in my ditches and it is backing up the pipe to my house for my sump pump. I have spoken numerous times with Ms. Maslen and people have come to my house and yet nothing is done. Last year, I complained about their driveways not being blacktopped by winter. They came out to everybody's house but mine saying that they have to dig my culvert. Sewers are in at my house and there is no reason that my yard shouldn't be put back the way it was. I spread 75 yards of dirt and then the Town came thru and dug up my yard and now I have water standing in the whole corner of my yard. I have put a lot of time and effort into it to have them come and destroy it and look at it for 2 years the way it is. Every 2 weeks I have to weed whack all thru the ditches where there are none because I cannot cut it with my lawn mower. I know I will hear "I know how you feel Mr. Owens". Well when I am done, you don't know how I feel. I am tired of it. I keep calling. I keep asking. I have been patient. I realize that it is town property but who takes care of it? I do. It is a simple request. They have come out and done everyone else's driveway. Why is mine not finished? Why can't my culvert pipe be put back in? They came thru and damaged 2 of my trees. On May 12<sup>th</sup> we came here and it is 3 months since something was supposed to be done. Summer is almost over and winter is on it's way and this isn't going to get done. I have to deal with another winter of water standing in my yard and raw sewage up in the corner. I want to dig up and repair my driveway and I can't do it. My septic tank sits under my driveway and until I can tie into my sewer, you are probably going to let me collapse my tank. The only way to not collapse my tank is not to do my driveway. So, for 5 years sewers have been coming through and now that they are through for 2 years and I have been looking at a mess.

Maslen: I believe that his problem is a result of the sewer construction that has been going on up there. There was a catch basin also put in and the reason they did not put the blacktop in because there are drainage issues that have to be resolved. It is going to take the finishing of the project, which we are waiting for the Comptroller's Office to give us the go ahead and those different things that need to be done. Again, we are very impatient. We have been trying to get this permission to have this done for some time now.

Roy Owens: I spoke to you and you said to give it another week. You told me that it was the Highway Department's problem to finish my culvert and put my driveway in. So I called the Highway Dept. and they say no that it is on the sewers that were dug. I am going back and forth wasting my time and getting nowhere.

Maslen: I am sorry. I understand that the drainage issue, the culvert in the storm sewers is the responsibility of the Highway Dept. However, if this is a result of the construction that went on last summer then it will be done at the same time we finish the project. We will start that project ....we have everything in place except

for the financing at this point and we are waiting momentarily to hear from the Comptroller's Dept. in order to proceed.

Roy Owens: When I spoke to you last week too, you told me this was all delayed. When I spoke on May 12<sup>th</sup> about the sewers on that street and you told me my statement had slowed the process down, borrowing money or bringing people in. That was the statement made to me. I am not in politics and don't care about politics. All I care about is getting my yard back the way it was. That is my concern and I am tired of the standing water and all the mosquitoes out there along with the West Nile Virus.

Maslen: It is our concern as well.

Carol Catlin of 2631 Upper Mt. Rd. I wish to talk tonight on "game plan". At the July work session, Mr. Kilmer referred to our "game plan" when the discussion was held regarding the layoffs of three highway employees. He said the plan was devised last fall when \$150,000 was cut from the Highway Personnel Budget and Mr. Reiter was told to layoff three employees at the beginning of the 2003. At the July 14<sup>th</sup> Board meeting, the Supervisor said "There is work to be done and to leave it unfinished is unconscionable. I am of the opinion that we need all of our employees. We need to get the work done". So, what is the answer? As of July 3 Town employees are laid off due to the directive said last year to the Highway Dept. A "game plan" can either be a winning game plan or a losing game plan. We are dealing with a losing game plan. The losers are first, the 3 employees left with no livelihood and secondly, the residents of Lewiston who are now left with a 20% reduction in highway services. How is all the infrastructure work to be done? The third loser is the condition of the Town. Projects will not be planned or completed because of the shortage of manpower. This plan is putting the Town into regression. When the time comes for snow removal, safety will be a big issue for employees and residents. Wouldn't it have been wiser to leave \$150,000 in the personnel line and see the Town move forward with projects and improvements for a better Lewiston? Yes, this was a losing game plan. What will the next game plan be? I am afraid to ask. Lastly, I would like to personally thank Councilmen Johnson and Ceretto for their support of the Highway Supt. and the highway personnel through all this fiasco. I come to quite a few Town Board meetings so I do know what goes on. Thank you for trying to right the wrong.

Donald Fending of 5974 Kline Road. I have been trying to get a problem solved in our area. I have lived here for 40 years. Up until the last 4 years I have never had such a problem. My wife's health is in serious jeopardy right now. This pertains to open burning, which includes garbage, rubbish, and campfires. We have open burning every night like large bonfires. The people in that area don't seem to know that we have a rubbish pickup and Mr. Reiter provides excellent pickup in our area. Our residents seem more concerned with taking the rubbish into their backyards and burning it there rather than putting it out front for pickup. This is a serious problem and it is getting worse. My wife has been under medical attention for the last 4 years. I feel that we do have the right to breathe clean air. As soon as it gets dark these people start burning tree clippings etc. A resident right next to the fire hall burned two trees that he cut down. I asked him to put the fire out because it was affecting my wife's health. He indicated that he was going to continue to burn. I called the DEC and the State Police and they addressed the issue and stopped the burning. Every night I have had to call either the DEC or the NCHD on this issue. Niagara Cnty. Legislature has cut back funding for staff and they are unable to respond. I would like to ask the Board if there is something in the Town of Lewiston ordinances to stop this burning. My wife has lost 25% of her lungs. Every night there is infiltration into your own home and it feels like a campsite area. I would like the Board to consider something to prevent this. Also, there is an issue with Lewiston Fire Co. #2. The young firemen seem to think that they have the right to open burn. The DEC is on this right now. It seems to be getting worst. I would like to put some limitations on this.

Phyllis Fending of 5974 Kline Road. I asked you 4 years ago for your help. This is what I am putting up with...open fires. I have lost 25% of my lung capacity in 1- years because this is going on. You want to take away Steve Reiter's 3 men who were probably helping me because they were picking up what these people are burning. You have to consider what is going on in my neighborhood and have the volunteer fire company abide by law. How do you expect to get everybody else to do I? I think you have to take this issue to them.

Jon Williams of 929 Pletcher Road. A month ago I received 2 notices of violations for a blow up swimming pool. I received copies of the Town Code and the State law and realized that the pool falls outside of the permit requirements. My wife and I pursued this about a month now and it seems to be in limbo now. What I am asking is whether or not the Town has come to a decision what laws will be adopted for inflatable pools?

Maslen said that we do have an opinion that was given to the Board but the Board has not had time to digest what approach they are going to take.

Jon Williams: It is almost daily that we are waiting something. We have made quite a few phone calls and we haven't heard anything back from anyone we have tried to reach.

Maslen: I have personally called several times, as has Atty. Brydges. We have had several opinions on this issue and the final opinion that we had was the law (code) that went into affect in Jan. of this year. It looks like that will be what the Board will adopt this evening.

Nadine Williams: We were told over a week ago when you called on a conference call that a decision had been made in our favor. It was brought in question that I didn't trust Mr. Brydges and he had told me that looking at the Town Codes our pool was exempt and was fine. So, we are being told one thing and then it changes. We hear thru other circles that our phone calls are not being answered. Then they change it again and people don't seem to have the courtesy to call us and say there is new information provided and there maybe other changes. It is like a circle that goes around and around as we wait. As of two weeks ago at the conference call that we had with Mr. Brydges and yourself we were being told that the pool was fine and that I didn't need a copy of the memo that was being sent to Mr. Coulter and that I should just be patient. As we were patient, there is new information that we were never called about. It really has us quite frustrated and upset and it didn't seem proper that not to call and say there is new information and this is now what is going on. It has to be rounded out and defined on what that new information is. This is part of the reason why we are so frustrated.

Maslen: I do understand your frustration. We really tried to get to the bottom of this and it wasn't until recently that we acquired the State's opinion.

Nadine Williams: It was over a week ago that we were getting a call from Mary Travers (From a local TV Station) and she knew about this existing law. I tried to make several calls last week that were unreturned for whatever reason and that she is going to help me about this new State law. It is very frustrating that I find out through another party that as I am calling to say can someone in the Town tell me about these new laws, no one returned my calls. So, it has been over a week and we have been waiting thinking any day someone is going to call us and let us know that there is new light to this story and this is what it is and what stations will come out. I don't understand why no one would do that for us.

Maslen: Hopefully, it will be clarified later this evening.

#### AGENDA:

Johnson asked for an executive session for a personnel grievance after the meeting. Leone indicated that he had some legal issues for the executive session.

Maslen stated that she had an item from NYDEC to be added for Post Audit and needs approval.

**Langlois MOVED to approve the Amended Agenda. Seconded by Johnson and carried 4-0.**

MINUTES:

**Langlois MOVED for approval of the minutes of 6-23-03 Work Session; 6-30-03 Special Mtg. re: Highway Budget; 7-10-03 Joint Tn./Vill. Police Mtg.; 7-14-03 P. H. Amendment to Town Code Ch. 24C and 7-14-03 R.T.B.M. Seconded by Ceretto and carried 4-0.**

ABSTRACT:

**Ceretto MOVED for approval of Claims Nos. 2222 – 2553 and recommend payment in the amount of \$294,211.77, plus a Post Audit of \$38,093.38. Seconded by Johnson and carried 4-0.**

**Johnson MOVED for payment in the amount of \$7500 to the NYSDEC for the WPCC Regulatory Fee. Seconded by Langlois and carried 4-0.**

OLD BUSINESS:

1. Comprehensive Plan:

Brydges: I have spoken with Dan Spitzer and he wishes to meet with the Board regarding legal issues. I think we ought to have a special meeting on this. He is available the last week in August but not on our work session night. Perhaps later that week in the late afternoon. We would need an executive session.

Maslen asked why it would be an executive session?

Brydges: Legal issues that he wants to discuss with the Board. We are going to have plenty of public hearings, but he wants to talk to the council.

Langlois: Can we have it as an executive session and part of it as open because some of the other questions would be routine.

Brydges reiterated that he was not sure if he would be available earlier on the day of the work session. He would check it out.

Maslen said we would have to declare it a special meeting after you resolve the date.

A discussion on possible dates and times took place.

2. Highway Budget Matters:

Johnson: At the last meeting we had, you (Supervisor Maslen) had a conversation with the budget officer and Mr. Reiter and some comments from the audience. I had to leave for the hospital and do not know what happened after that. You were talking about corrections that were being made on the snow removal money.

Maslen said there is \$51,000 in snow removal and I am checking that out. Apparently, hours that were used to remove snow were charged to the general services. We as the Board, by law are required to provide snow removal service. I am going through all of those figures to verify that those men if and when did work removing snow. We will then allocate from the excess funds to the snow removal and then we will transfer it from general services because that is where it was charged incorrectly.

Langlois: I don't understand why charges are not done correctly. We know every day where people work and the accounts and why aren't they there?

Reiter: Incorrectly?

Langlois: I'm sorry you are not part of the Board, Mr. Reiter.

Johnson: This is his subject.

Langlois: He can be recognized by the Supervisor.

Maslen: Let me explain what happened here. Each week the men supply Mr. Reiter with a list of their activities and what they have done whether it is drainage, snow removal, general services, brush and weeds etc. Every day they tell exactly what they what they have done during that day. On some of the days where men worked in snow removal, their time was misallocated to the general service fund. Therefore, that was charged against general services. Mr. Reiter takes that information and he puts it on a time sheet. I will be happy to show you the time sheets that were submitted. When we realized that this was happening and that we could use excess funds for snow removal then Mr. Reiter with some of his staff went back and they reallocated those hours to snow removal where they were suppose to be.

Langlois: You didn't answer my question. Why were they misallocated in the first place?

Maslen: I can't answer that.

Langlois: You don't know and I don't know either. But, you would think a person knows where they work and then put it down. Every business I have ever been in if you falsify where you have worked etc. is pretty serious. You ought to put down where you worked and get the charges right so we don't have to go back six months later and make all these changes.

Johnson: Mr. Langlois, this is the Town of Lewiston. You have a Highway Dept. and a Water Dept. The Village has a DPW. Everybody works together and they all help each other. When there is a catastrophe out there or if something happens in snow or ice etc. everybody moves around and they move fast. When there is something like the Kiwanis picnic and you needed some help, we moved some people around. We are all still one town. We help each other department from department. At the end of the year, sometimes you have to allocate and straighten things out, but you can't designate each specific time. When people need help in parks. ...that is what we are all about. That is what service is all about. I don't know why we are sitting here.....all I want to know is and I have asked this for about 6 meetings now and on the 28<sup>th</sup> meeting we were going to get to the bottom of it. Unfortunately, I had to leave a little early...Steve Reiter came to a meeting way back and said we were all going to sit down on the 28<sup>th</sup> meeting and designate this thing and go thru this number. There were moneys that they said were \$189,000. Then Mr. Evert said that wasn't correct and we got a check and final payment etc. We tabled it, tabled it and tabled it. Now here it is back again. The Supervisor just told you that there is \$51,000 that needs to be corrected that we think we can get.

Mr. Evert is there \$364,000 in the Highway budget from 2002-fund balance? Is that correct? Do you know that?

Evert: Off the top of my head, I don't have the exact fund balances but it has been distributed to the Board previously.

Johnson: There could be, right? If there is \$364,000 there and we have \$51,000 the Supervisor just mentioned that should have been allocated to snow removal....and we get into these different situations where we don't know when we will have a blizzard or ice storm so we have to move things around. I have been asking right along that we can do this...now, let me ask another question. This is to the Supervisor who runs the Water/Sewer Dept. I understand that we had D.V. Brown doing the badger meters. We put the badger meters in and all of a sudden I find out that our Water/Sewer Dept. is finishing the job. Is that correct? On overtime to put badger meters in?

Maslen: No, no overtime. No overtime. We don't do overtime.

Johnson: Is our department doing any of the work for the badger meters from the contract with D.V. Brown had? (yes) Why is that?

Maslen: I can answer that as Administrator of the Water Dept. There were several individuals that would not allow this company to come their homes for whatever reason whether they spent time away from Lewiston or whatever their situation was. There were about 100 people that they were not able to get in and see. Some of the situations are where the meters are in such a place that D.V. Brown didn't have the expertise to handle the situation. Some of our residents were not cooperative at first. However, once we completed a majority of the project it was in the best interest of our residents to complete the project as we wanted. That money is coming from the moneys that we borrowed. That is not coming from the Water fund. That is coming from moneys that we borrowed to do the installation projects. But we are now down to doing x number a day and finishing up the project. I have withheld from the contractors the moneys that it is costing us to do this.

Langlois: We have held back the money so we are not paying twice. D.V. Brown is not doing it so they are not getting paid for the work that they are not doing.

Johnson: That is pretty nice, Jim. This is the first time I have heard about it.

Maslen: I am sorry. You have in some of your information last week and I know that things have not been really....but I did give the entire Board, even the schedule of the houses that we are doing.

Johnson: So, whatever the contract was and the bonding that we did and the charges that we have in that district for that badger meter is going to come back to the Water Dept. for the services that they are going to do that D.V. Brown didn't do. Correct? The financial end? You are saying that there was absolutely no overtime done from the Water Dept. to put any of these badger meters in?

Maslen: No.

Johnson: Absolutely none? That brings up another point because we were able to do some of that work when we were hired out to a contractor (D.V. Brown) to do that our guys can do now and then we can get our guys paid whether it be your department or Steve's department or whoever's department...that we can get some money back. That is exactly what I am trying to say that there is work in the Town. Then why would we not try to do it ourselves and keep our people working? You just said that this is an outside contractor that some people in the Town would not let them in the door but they surely would let the Town employees in. I think we can handle a lot of the stuff that needs to be done in these jobs just like we did Gorgeview and maintain our people. I think that the Highway Dept. can also assist the Water/Sewer Dept. on specific projects as they can also assist if there is a blizzard to help each other out. We are all one team and that is the way we should be.

Again, I am going to ask you one more time, if we do all these calculations and I made a motion and I am going to repeat it one more time and after this it goes away.

**Johnson MOVED that we allow the Supervisor, the Budget Officer and Highway Supt. S. Reiter to work out the numbers that he has coming in including the \$51,000 and bring it back to the table. If there is in the Highway Fund balance of 2002, \$364,000 that we allow him to adjust this by taking fund balances and bring the 3 men back to work. Seconded by Ceretto.**

Johnson: In my Motion as long as it is legally done and the adjustments are done properly so that we can fund back the fund that the employees were taken out of because of overtime etc. I am sure that you can work with the union people to do that. That is my motion on the floor.

Ceretto: I concur with a lot of what you are saying is that Lewiston is a small community and we are good neighbors to each other in the past. In the private sector I know that they are pushing like in maintenance, for the electrician to the millwright's work etc. It is more efficient. I encourage this Board to go down that path where our Highway Dept. has in the past done other chores that we keep the jobs within Lewiston. I believe it is financially beneficial for the taxpayers that we do this. Being in the private sector for 20 years that is where they are going. I look at the residents, the Fendings, the Williams, Catlins and the Owens who have problems. You expect us, you deserve it that we work these problems out. For us to work it out we need to communicate and as I said if it doesn't get approved here, I suggest strongly that we have a work session and again sit down with Steve Reiter because we have to work as a team. I believe that if we have an open mind we can resolve our problems and our issues and that is what you expect us to do. You don't expect us to sit up here and argue how we are going to do it what the job is not getting done and you live in sewage and you are having problems and you want us to complete these projects. We owe it to you. I think that if this goes down that we have open meetings and work together and accomplish our task.

Langlois: For the last month and half at least, our accountant details of the highway budget and where the money is, where it is spent and what needs to be done. I have copies and it is in our packets. If you would read this we would all understand where we were....I know you read it but you saying that you still have questions...If you have questions we can ask the accounting supervisor about this later. I certainly agree that we all have to work together but we shouldn't have to rehash something over and over again. This Board should work together and when a Board makes a decision we should all follow the Board's decision. I will remind this Board that in budget time last Oct. or Nov. we had for a first time the prospect of a part town tax. We all said that we didn't want a town tax. Some of us worked very hard to try and reduce that budget so we would not have one. When it became obvious we were going to have a small one anyway we still tried to go back as much as we could. So this Town majority, Mr. Kilmer, Mrs. Maslen and myself looked at how many people we needed in highway and water and we looked at the jobs that we were doing and we were no longer doing sewer work, no longer doing a variety of things. I have written this into the record before so you all know this. So, we decided that we would have a total of 14 instead of 17 people. We cut the budget by \$150,000. Therefore, there was \$150,000 less tax that our people had to pay. Now, you may disagree and say that we really needed those extra people, but that was the decision of this Board. We told the Highway Supt. that he had money for 3 less people and that he needed to live within his budget. We were not going to transfer money to make it up. That was true from the beginning of the year. I know there were some complications in that the Supervisor thought that by cutting the overtime to almost zero and whatever you could essentially make up this money. Although, if you look at the math, I didn't see how you could possibly make up \$150,000. You might have been able to make up a good part of it. But, we didn't get that cooperation. The overtime was very, very high again. So, we weren't able to do it and now we are at the point where there is no money and that we are going to have to find some extra money even with all of this accounting that is going on here. We are probably going to have to use some of the fund balance to cover the snow removal at the end of the year because as Mr. Kilmer said we really cannot go below 14 total. We don't really think that we should do that. So, we said we would find money to keep the 14 on. That is going to use up a good part of the fund balance that we have there as it comes up. So, when it comes budget time in about 2 or 3 months there will not be very much fund balance to supplement the Highway budget and we will have an even higher tax coming up this next year unless we find ways to save. Now, I know that you voted against the budget and so did John and so did Mike and so forth and you voted against it primarily because we didn't put enough money in it for highway. You wanted the tax to be higher, \$150,000 higher.

Ceretto said that is incorrect.

Langlois: You also wanted to allocate more money to the Highway so our taxes to the people in Lewiston would have been \$250,000 higher according to your

proposals and I know you voted against the budget. The only reason I can see is that the taxes weren't higher for the people even though you talked about ..

Ceretto said you spent money on the golf course, Jim. There were priorities and I would rather spend it on the people than a golf course and that is what you are not saying..... It is a matter of.....

Maslen: Mr. Langlois, I take exception to some of your statements because never did I want to lay off three employees. That was not my decision or my plan at all. However, we had to cut \$150,000 from that budget. We asked Mr. Reiter to look as closely as he possibly could and he couldn't do that. He had allocated so much for snow removal, so much for drainage, so much for those types of things and we decided that if everyone worked together and people stayed in their own positions and did not work the extra overtime or not given extra overtime and if they used the system the way it was suppose and the way that we agreed during the negotiations that we would be able to save money. We would be able to save the \$150,000. I know that you disagreed with me from day one on this, but I had the faith that we could do that. Unfortunately, there were some circumstances that did not have that happen. The overtime was not rotated as expected. Some of the men were paid out of class and some things were allocated to one thing instead of another. There was some difficulty there and all of a sudden we came up with a shortage even more than we had anticipated to begin with. Now, we also have 4 projects that were slated to be done this year. That was Bridgeman Road, Dickersonville Road, Meadowbrook Drive and Fairway Drive. We know that the water project that we are waiting for an opinion has delayed those two but to the best of my knowledge, I don't think we completed both Bridgeman and Dickersonville. In an earlier session, we found that in fact, we did not have enough money in the budget as it is now to even do Bridgeman Road the way this Board thought it should be done. We've been going backwards all year long and that is the fact of the matter. The Highway Dept., the Police Dept. and the Library are funded by sales tax. That is sales tax that is received by the Town for the Town outside of the Village. It is something that we use for those specific funds. It has nothing to do with any of the monies that we get anywhere else. We have also allocated the mortgage money that we receive for the mortgages that are financed outside ...the mortgage tax that is for financing in those areas that we receive for the Town outside of the Village. That was not enough money to cover everything we had. There was not enough fund balance until we had our audit that even allowed us to do that. We are not looking for a windfall this year. It has been rough. Since 9/11 we have had some difficulties in Niagara Cnty. You hear it every day. You hear it from every municipality. The monies in sales tax are not there. The factory outlet mall is not getting what they anticipated. The downtown Niagara Falls merchants are not getting what they anticipated. We in Lewiston are doing everything we possibly can to attract people to our area that will generate sales tax. These are the monies that pay for the highway, police and the library. That is where our deficit was last year. It was in that area. We have to do what we have to do and we have to make sure that we have enough money to fund what we have to do the rest of this year. Unfortunately, that was a decision that Mr. Reiter made. We cannot as a Board and please understand that, we cannot demand that this man lay people off. We cannot do that. We may direct that (some of us may) but we cannot do that. Town law says you cannot do that. But we do control the budget and we are simply asking that Mr. Reiter stay within his budget and do the work that has to be done in the highway by doing those services that are required.

Johnson: You brought up some points. You are absolutely correct, Sandy. You have been right there all the time. You did mention and I was right with you and I do agree with you that Steve needed to work with those guys. Those guys I think would work with Steve in the same fashion and the same mode with the union. A couple of things happened. Number one, we had the union contract after the budget that was different from what we could possibly think about budgeting for the men. This gentleman stood up and talked about the problems on Mayflower and I drove up there and these are the types of things we could do with our employees and clean up these things and keep our men working. We have some things that are coming

up like the Modern additional monies, the power re-licensing as well as grant money from the Homeland Security that we need to go after. A recent article by me stated that 70-71% of the assessed values are off of the tax rolls. I think it is closer to 80-90% because the assessed values have not been assessed for a while. There are certain things that I think we can work with. There is work that needs to be done and I think we can work together. I also think that the union would work with us as well to keep people working. There is such job loss in this area. Mr. Langlois mentioned in his comments that we looked at the highway and the water/sewer. We put three men in the water/sewer. I don't want to see anybody get laid off. I would rather have them go and cut lawns in the parks and do other things. Let's do some of the work ourselves. I think we could do that if we designate some of the work. You got the badger meters from D.V. Brown and I did not know why they were relieved.

Maslen: They put in 4500 meters and there were 100 that they did not put in. You have to understand that that is the way it goes and there some things and I know that we have wonderful employees but there are some things that our people are not capable of doing and some of those things were reflected in the sewer installation that were up in Sanborn. We need to take a look at our capabilities and take a look at our men and do what we have to do. In the meantime, we have a budget that we have to stay within and there are all sorts of money that maybe out there some day but right now it isn't in the bank. I don't spend money I don't have.

Johnson: Nobody is asking you to spend money you don't have. It is just that we get this money (\$51,000) that we hearing about for 3 months. How far are we off, Steve on your budget for these 3 men that we laid off?

Reiter asked if he would be allowed to speak?

Maslen said no.

Johnson asked why not?

Maslen said because it is a Town Board Meeting.

Johnson: But, this is all about him! He has his name on this.

Maslen: I realize that.

Reiter: You made some accusations that are unbelievable.

Maslen: I am only thinking as it is really is. I have the paperwork to back up anything I said. I am not trying to humiliate you.

Reiter: Yes, you are.

Maslen: No, I am not. I am trying to resolve this problem. You have a budget and you have to stay within your budget like everyone else does. We have made some exceptions in order to get the materials for you.

Reiter: These aren't the points that I want to address. Mr. Langlois made a comment that it is a serious charge if I take monies out of one personal account vs. another personal account and you just said if you don't have the money you couldn't spend it. So, when I run out of snow plow money I have to go to general services and until I get reimbursed, I figure I am doing what I am suppose to do. I have not been told to do otherwise and we didn't have money in hand. So, I did, as I would deal with you, as you would direct me, unless you tell me different. You made that charge ma'am. I'd like to respond to it.

Maslen: Mr. Reiter, one of those and several of those incorrect allocations were the very first part of January when we had a brand new budget. So at that particular time...

Reiter: No ma'am.

Maslen: You credited or you charged general services for services that were done in snow plowing and within the first month you didn't make an effort to correct it nor did you come to the Board and say that you needed more money for snow plowing. I gave you a directive telling you that's the thing we have to fund. It is a matter of doing the right paperwork. It is that simple. Your men put down for you every single solitary day where they are working and what they are doing

Reiter: Yes, ma'am.

Maslen said and you take those figures and you apply them. There is a time ticket that you submit to personnel or payroll that says so many hours for snow plowing, so many hours in drainage, so many hours in general services, so many hours here etc. If you don't allocate the time to the right account then no one knows what is going on.

Reiter: Well, ma'am it is obvious that you all know what is going on because you never come down here and take a look at what we go through or anything like that.

Maslen: You are the Highway Supt. I don't have to come down and run your department. You have to do it yourself.

Reiter: I will ask one thing. When this gentleman (Mr. R. Owens) called me and tells me that you told him that it is my problem that his yard has been torn up by your sewer crew, please don't do that anymore. Okay, because I can't help this gentleman all right, because you won't reimburse me correctly. You won't reimburse me for telling Kiwanis that you will help in all of their clambakes. You won't reimburse me for that. Mr. Langlois won't reimburse me probably for moving a grill to his charity up at St. Mary's Hospital, also a Kiwanis event. You people won't help me when it comes to that kind of stuff.

Maslen: Why are you doing that?

Reiter: Why am I doing that? Because you won't do it?

Maslen: Excuse me. First of all.... the parks is not your jurisdiction. Parks is...

Reiter: Mr. Johnson, what did Mr. Trunzo say that she said?

Johnson: He told me that you said okay for him to go and help out and get the....

Maslen: I did not say that. He asked if those things can be done and I said they could be done. I did not allocate that to Mr. Reiter. We have a Parks Dept. leader.

Reiter: When I called him, he said he didn't know what it was all about.

Maslen: That is something we will have to....

Langlois: These little things like this...we have to learn to work together and the Highway Dept. does have trucks and people etc. and something like this is done for Parks can be charged back to Parks.... we do that now. It is just small little things like this that should not become controversial at all. I will go back and say once again that as I have said and put in the record it is never ever, ever pleasant to have to lay people off or reduce your forces. It is very, very difficult and I have had to do this in private business in order to stay in business. A town is no different. If NYS is ever going to become competitive, it has to reduce its tax load to every part of the State and it starts with the local people in towns like ours and villages and in counties and the rest of it. It's not ever happen. It is easy to add people but it is hard to take a look and say I think we can get away with spending a little less here and reducing forces slightly. We did that last fall. It was not easy at all. We voted

on it and we are trying it and indeed if we are not able to plow roads and do all the rest etc., we may need to have some additional overtime or hire people back but it was our judgment that we could do and still get the job done. If we are not willing to try and become more efficient in government what are we here for?

Johnson: I think that is a good comment, Mr. Langlois. I agree with you 100%. The point is why would you hire part time people to cut grass? Why would you do that when if you think that is the case, why wouldn't you keep your own people working instead of hiring another contractor, another group, another this and that? You people cut the budget by \$150,000 and you knew darn well that that was 3 men, so many hours, so much overtime because you sat right in the budget session and said that. I said how could you even sit there and do that before the contract was done, number one. Number two how do we know what kind of winter we are going to run into. Number three, if that is the case, the agreement in the contract and one of the things that I need to bring up in executive session is that these things are popping all over my desk and basket of grievances that are coming in that we need to address. Part of that problem could have been alleviated had we sat down with the union and said we need to cut all of the overtime. We just need the guys to keep working and if we have to ship them from this job to this job.....

Langlois: You have not looked at the economics because our grass cutting total is about \$20,000. Mr. Reiter told us earlier that he couldn't maintain his equipment for \$20,000.

Johnson: That is correct and you could go and hire Manpower....

Maslen: We have to come to a close on this gentlemen. We have been talking for a good half hour.

Johnson: We can hire Manpower and do a lot of that stuff. We could do all of that. But we can also pay legal fees and things that we go through on a union contract that I don't want to go through. So, you can take one or the other. I put a motion on the floor that we put these guys back to work until the end of the year until budget session and until you figure out what you are going to do. Maybe there are some other options including the Modern settlement that we just made..

Langlois: You can't allocate that money. That is in the "A" fund and you know it.

Ceretto: Golf. You started talking about golf when we had funds in the budget. But, it is a matter of prioritizing. If you are ready to spend 7 or 8 million dollars and I really wanted the public hearings and have the public comment before we spend \$100,000 on the golf. I wanted to hear their opinions because in my opinion I am very conservative like what you are saying Jim. I would love to have a golf course but when we are sitting here and we can't afford to pick up the brush, plow the roads, how do we afford to spend 7 or 8 million dollars on a golf course, Jim? It just doesn't make sense to me.

Langlois: Haven't you read the economic report that there is going to be a net revenue generated.

Maslen said this is off the subject, please. I am going to call for the question. The clerk was asked to read the motion.

Brandon: I believe that Mr. Johnson's Motion is: To allow the Supervisor, the Budget Office and Mr. Reiter to get the figures that are needed and bring those figures back at a work session. Also any adjustment that are needed to be done legally to bring back the three men to work until the end of the year. Also, a question was raised related to the figures and he wanted an explanation of where the \$364,000 that was mentioned is plus the additional \$51,000 in snow removal. Mr. Ceretto seconded that.

**On the MOTION: Ceretto and Johnson Aye; Langlois No and Maslen Abstained. 2-1.**

Maslen: When I have figured out where we are and who's on first and what's on second and how much we are going to need just to maintain what we have then we will have the discussion again.

Ceretto asked if it could be moved to the Work Session and put it on the agenda and hopefully you will have that information so we don't forget it.

Maslen said we will move on.

3. Miller Road Stop Sign:

Maslen asked Chief Winkley if he had any report on the signage on Miller Road. I know that you had brought the opinion that we did use stop signs to regulate traffic but the Board did take another look when Mrs. Josey came to the Board meeting. Have you had any further discussion regarding this?

Winkley: We have been on Miller Rd. with radar at 8:30 a.m. and 2:30 p.m. We haven't caught that many speeders. The problem with using a stop sign and in the NYS manual for signage it states specific reasons why you use stop signs. If you use them wrong and there are some streets in Lewiston where they are used wrong, it creates another dangerous situation where people actually run stop signs. It kind of encourages them to run stop signs, which creates another problem. A lot of areas where we are having people complaining about people running stop signs because it is not set up right. You have to be very careful with stop signs and their usage. Stop signs are for crossing and dangerous intersections. That is their purpose. If you use it for anything else you are just going to encourage people to running stop signs. I saw Mrs. Josey on Saturday and she does have a unique situation with a child who has a vision problem.

Maslen asked if there is some type of signage that could be helpful?

Winkley: Yes, there are signs. I see you have another request for "child at play" signs. NYS does not do that anymore. It creates a net of un-safety where people think because there is a "child at play" sign that kids can run around more. They don't put up signs like that anymore because it makes it unsafe.

Maslen: I am not worried about the "children at play" signs...I have seen the hearing impaired signs ....

Johnson asked about caution signs that says handicapped child.

Winkley said he has seen them in the Adirondacks. They have not pulled down "children at play" signs but they don't put them up anymore. I don't know if that sign is under the same domain. I will look into this.

4. Drainage Issues: Information regarding several drainage issues were given to the Board today and these items will be discussed at the Work Session.

5. False Alarm Fee (Richard & Sharon Low)

Winkley: The people involved were out of the country and they had a defective alarm (floor sensors) that went back. A relative who was watching the home set off the first alarm. The others were caused by the defective alarm. I would recommend that we keep the first alarm call on record and waive the fees on the others.

**Langlois MOVED to waive the fees for false alarms for Richard and Sharon Low with the first offence remaining. Seconded by Johnson. Carried 4-0.**

NEW BUSINESS:

1. Request from Robert Coulter to attend the NY Building Official Conference in Kerhonkson, NY from Sept. 24-26, 2003. Funds have been budgeted for this conference.

**Johnson MOVED for approval of Bldg. Officer R. Coulter to attend the conference from Sept. 24-26, 2003. Seconded by Langlois and carried 4-0.**

2. From Karen Hamam, 869 The Circle: In the past few months, I've engaged a plumbing company 4 times to clean out the sewer line at my residence. The plumber informed me that the drain on the edge of my property had collapsed and he thought the electric pole near the drain might possibly be the cause of this problem. On July 9<sup>th</sup>, I contacted Niagara Mohawk who determined that the cause of the collapse were the roots of the nearby tree, which is within the town's ROW. I would appreciate your removing this tree and reimbursing me for the forthcoming expenses to rebuild the sewer. I am in process of obtaining estimates from various plumbers.

Maslen: I would like to have our crews jet that sewer line so we can either agree with Niagara Mohawk or ...

Langlois said we should have our sewer people investigate this and also look at the tree.

Reiter said that town crews removed the dead tree that was in the ROW.

Maslen said she would like to make sure that it is the roots from that tree that caused the problem before we agree to reimbursement.

3. Request from Kevin C. Michael to purchase vacant land located on Liberty Drive, TM# 130.06-1-13, currently owned by the Town of Lewiston.

Langlois suggested that Mr. Leone along with Assessor Virtuoso advise us of the location, advisability etc. of selling this property.

**Langlois MOVED to table this request to the Work Session for additional information. Seconded by Johnson and carried 4-0.**

4. The Planning Board, on July 17, 2003, approved a request from George and Rosalija Jung for a one-lot subdivision on the north side of Saunders Sett. Road, SBL#118.00-2-41. Attached are the responses of the Environmental Comm. and the Niagara Cnty. Planning Bd.

**Langlois MOVED for a Neg Dec. on the subject property. Seconded by Johnson and carried 4-0.**

**Langlois MOVED for approval as per the Planning Bd. and Environmental Comm. recommendations along with N.C. Planning Bd. for the subject property. Seconded by Johnson and carried 4-0.**

5. The Planning Bd. on July 17, 2003 approved a request from Michael Kelly for a one-lot subdivision on the west side of Townline Road, SBL#118.00-2-8. Attached are the responses of the Environmental Comm. and the Niagara Cnty. Planning Bd.

**Langlois MOVED for a Neg Dec. on the subject property. Seconded by Ceretto and carried 4-0.**

**Langlois MOVED for approval per the Planning Bd. and Environmental Comm. recommendations along with the N.C. Planning Bd. for the subject property. Seconded by Ceretto and carried 4-0.**

6. The Planning Bd. on July 17, 2003, approved a request from Janice Haseley for a one-lot subdivision on the south side of Saunders Sett. Rd., SBL#118.00-1-55.111. Attached are the responses of the Environment Comm. and the N.C. Planning Bd.

**Langlois MOVED for a Neg. Dec. on the subject property. Seconded by Johnson and carried 4-0.**

**Langlois MOVED for approval per the Planning Bd. and the Environmental Comm. recommendations along with the N.C. Planning Bd. for the subject property. Seconded by Johnson and carried 4-0.**

7. Letter from Charles Deering, 4703 Jason Court. In the green space at the rear of my property, I have a small 20 x 30 ft. vegetable garden. I enclosed it this spring with a temporary 3' chicken wire to keep the rabbits out. Mr. Coulter approached me about this fence in the green space. I ask your permission to allow me to leave it there until Oct. 15<sup>th</sup> at which time I will remove it.

**Johnson MOVED for approval of the request. Seconded by Ceretto.**

Langlois said that he had a discussion regarding the green spaces. I looked at this because there had been significant complaints from a neighbor about the encroachment on this green space to the point of bringing equipment to clear Town land to plant this garden. This is clearly in violation of the green space. The fact that they cleared this area and put chicken wire around it, the neighbor feels that chicken wire is not acceptable to her because it is suppose to be a green area. She wants the whole thing taken out but at least the fence taken down.

Johnson: Why not till Oct. 15<sup>th</sup> and inform him not to do it again next year?

Ceretto said he would support it with the intention that he is aware that this should never happen again and give him some time to phase it out.

Johnson asked of the attorneys, if we have a disclaimer on this and that he would be responsible for it.

Leone said that could be done.

Maslen said he has a 20 by 30' encroachment on Town land and if someone were to be hurt we would be responsible.

Leone said he could write up a disclaimer if the Board wished.

Johnson said that the disclaimer say that after Oct. 15<sup>th</sup> he must remove the fence and the produce and cannot do it next year. Also. for the time that it is there you will be responsible.

Langlois concerns are that more people will call about this eyesore and that it should not be there.

**Johnson Amended his motion, that the fence is to come down and the garden can remain for this year until Oct. 15th and that no garden is put in next year. Seconded by Ceretto and carried 4-0.**

8. The Planning Bd. on July 17, 2003 approved a request from Jack Lindelow, Pres. of Innovative Marketing Solutions for a rezoning classification of SBL#101.12-1-91 and SBL# 101.12-2-8 to PD-4, as Per Article XV, Planned Development District of the Town Code. The Plan. Bd. recommends approval from R-1 to PD-4 to include the variance of 30-41A preliminary site plan and the recreation area north of the gazebo be moved to an area east of the gazebo. Attached are the responses of the Environmental Comm. and the Niagara Cnty. Planning Bd.

Maslen: In the check list from the Engineer was the concern that a buffer zone is needed. I am not sure that this letter from Tredo Engineers addresses this concern.

Langlois: When we tried to change some property from R-1A to R-1 off of Fifth St. for the assisted living project, we had public hearings for the Town Board. Here we are going from R-1A to a cluster of PD development and it has never come before us before. Do we have to have a Town Board hearing?

Maslen: We are changing the zoning. Mr. Lannon, you mentioned a buffer area and I'm not sure if the engineers for the developer addressed that.

Lannon: They have submitted original plans and comments in the letter addressed the issue that we had of the plan. One of those was the buffer area that they had developed within that buffer area and the proposed development within that buffer area. They revised those plans and made alterations to those areas we were concerned with. One of the remaining buffer areas is by the church property and church spokesman said it was okay with what has been proposed.

Maslen: Are we required before we approve or disapprove that we have a public hearing?

Johnson asked Atty. Brydges if this should be discussed at the meeting with Dan Spitzer?

Brydges said he thought yes.

**Langlois MOVED to Table this until the Board has a Comprehensive Plan Meeting with Daniel Spitzer. Seconded by Johnson and carried 4-0.**

9. The Lewiston Kiwanis would like to invite you to participate in the Peach Festival Parade to be held on Saturday, Sept. 6<sup>th</sup> starting at 11 a.m.

The Clerk stated that she would return the form stating that all of the Board will be attending.

10. The contract between the Town and Sanborn Fire Co. concerning the Sanborn Fire Co. Band performing the function of being the official Town of Lewiston band expires 12/31/03. The Sanborn Fire Co., on behalf of the band would like to enter into discussion with the Town Board for the prospect of continuing this relationship.

Johnson said it could be added to the meeting regarding the fire contracts. We are waiting for them to get back to us and then the Supervisor. Attorney Leone and myself will meet with them. We will add this to the meeting.

11. The Ethics Cmte. finds that no violation of any local, state or federal law with regard to solicitation of town employees for political functions. However, it is the opinion of this committee that there was no malice intended but would discourage said practice by all candidates seeking public office in the Town of Lewiston.

Langlois said we knew from the beginning that there was no law involved and it was just a question of taste and policy and they have now told us that this is not a good practice, so no one will do it from here on out.

12. From Kristen & Michael Wilson, 5033 Bronson Dr. The speed limit on Bronson Drive is 30 MPH. The number of vehicles that travel at speeds in excess of the posted speed limit continues to be a problem for residents. We request the Board's review of the following: 1) The reduction of the speed limit on the lower section of Bronson Drive that feeds into The Circle to at least 20 MPH. 2) The placement of "Children at Play" sign on the same portion of Bronson Drive.

- 3) The possible placement of stops signs at the intersection of Bronson Dr. and The Circle.
- 4) Additional enforcement of traffic laws along Bronson Dr.

Johnson: This should be referred to the Police Dept.

Winkley: I would invite people that live in those areas to sit in the car when we run radar. We have had a reporter sit on Creek Rd. Ext. when we were running radar on trucks and he can testify that there are trucks exceeding the limit. Usually the people that live in the area are those that speed.

13. From Marcella M. Sharman (Rowley) regarding drainage concerns at 5844 West Street. This item is addressed in Mr. Reiter's response and will be discussed at the work session.
14. The Upper Mt. Fire Co. herewith submits for active membership in said Fire Co. the following names: Timothy Sprong, Joseph Potenzzone, Heather Cober, Zoran Obradvic, Alexander Johnson and Jenifer Schuler.

**Johnson MOVED for approval of names as submitted. Seconded by Langlois and carried 4-0.**

Maslen: Attorneys, I have had someone inquire regarding the law that was passed that allowed us to have "student firefighters" and what their and our responsibilities are. Since we have two fire companies that have youthful fire support it would be helpful if this Town Board would know exactly what the laws are and what we are suppose to be looking at when we grant permission for them to be a part of the our company.

15. From the Town Clerk. It has become a necessity to replace the drinking fountain in the foyer of the Town Hall. Because of the age of the existing fountain, replacement parts are not available. After discussion with Eng. Lannon, three bids were secured from local plumbing businesses. I recommend that we accept the proposal of H. W. Bryk & Sons in the amount of \$750. Funds to come from A-1620.2 Town Hall Equipment.

**Ceretto MOVED to accept the proposal of H.W. Bryk & Sons in the amount of \$750 for replacement of the water fountain at the Town Hall. Seconded by Johnson and carried 4-0.**

CERETTO:

Public Comments-Modern: I would like to respond to the comments at the public hearing on July 14, 2003 regarding Modern truck traffic. Mr. Lytle said, "that any notion of a town tax is something he would like to avoid for everybody. Everybody knows that once you establish a tax to fix a budget problem, you will never get rid of that tax in the future and it will likely grow and grow like top seed." He asked that we should support the Modern decision. His issue was taxes. Mike Johnson and I were listening to Mr. Lytle. In 1996, a Citizens Cmte. was formed because we had moneys that were not part of our budget process. (extra money). The committee decided to divide that money in a 30-30-40 split. It was for tax cuts, new business and for infrastructure. What we are suggest is that when we go into this budget and everybody knows that our children are leaving the area and that when this committee did their research it was found that the residents wanted a reduction in taxes. Economic development is for our children and the people here. The infrastructure is the problems that we live with.

I think that now we have an opportunity with new money that we do it once again. When we look at Lewiston when we did those things, you can see things that developed out of it like improving our life and reducing taxes.

**Ceretto MOVED that when the Supervisor proposes her budget that the Modern monies be treated separately and that we divide this money with the**

**majority being used for cutting our taxes, infrastructure improvements and economic development.**

That would help the Sanborn Historical Soc., the seniors, recreation etc. This will help a lot of people and by putting it in the bank, we can do the extras.

**Seconded by Johnson.**

Maslen: I want to explain that as part of your regular budget and the monies that we receive now from both Modern and CWM are paying down town tax. This happens because in that particular general fund are your expenses for your Supervisor and her staff, your Council people and their activities, your Highway Supt. and town garage, your Assessor, your building code. Those people are all paid out of that fund. If we did not have that money in that fund then we would have to charge a town tax in order to provide you with those services. I want to make it clear that although it does support the GLBPA, the Council on the Arts, marketing, 2 free libraries and other items such as these, that already a good bit of your money is going to pay down a town tax that we would have if it weren't for the fact that we have received those monies.

Ceretto said he was talking about the \$262,600.

Maslen: I don't want you to think that that is not what we are doing. The additional monies that we are anticipating and we won't be receiving those for probably another period of time because that is based on their gross receipt tax and they have to figure it out before we get any of that money. So, if they don't have an increase in gross receipts this year then we won't see that money next year. So, it will be some time coming. But, I do agree that that money should be set aside for infrastructure. That was the part of my thought process when we were thinking about that is that it would help us to do some of the roads and drainage situations that come up. I think we should be specific. The allocation should be specific for a specific year and a specific amount of time and a specific project so it does not get frittered away in our everyday activities. I think that is a good idea.

Langlois: I agree that when we first started to get this large amount of money we had plans as John had alluded too and percentages etc. We did have several million dollars that had been built up and it was drawing interest when the rates were good so we had a cash flow in addition to having those several million dollars in the bank. The several million dollars are now gone. We have low fund balances. We had a tax for the first time. I see no way we are going to avoid a bit of tax again this year because we have no significant extra income coming in other than perhaps this \$250,000. This \$250,000 roughly coming in extra from Modern will not even make up the difference for last year's tax much less the coming charges this year with higher costs, higher union costs and higher everything costs. So, I don't think there is going to be any monies to set aside. We could set this aside and tax people more but I am not going to do that. I am going to spend this money to keep the taxes down. So, I don't like the idea of setting this aside and increasing the tax to people because I am sure that is what is going to happen.

Ceretto: Would you rather use it all for the reduction of taxes? I would go along with that.

Langlois: Yes, to reduce taxes. Of course.

**Ceretto MOVED to amended his Motion to use the \$262,600 as extra money to reduce taxes totally.**

Ceretto asked Langlois if that is what he would rather do?

Langlois: Absolutely.

**Johnson seconded the motion.**

**Ceretto WITHDREW his original Motion.**

**Ceretto MOVED that the amount of \$262,600 is treated as new money outside of the budget for the intention to reduce taxes.**

Maslen asked why would it be outside of the budget? It would have to be part of the budget.

Ceretto: We didn't plan on having these funds and we were going to have a budget no matter what. This truck traffic thing is new. Sandy is going to come up with a budget and I want to make sure that it doesn't get involved in the everyday operational costs. It is something new that if there is a tax, which you are saying Jim is that there is definitely going to be a tax...I don't know that. I am hoping that there isn't. I don't know if it is going to increase it but this is money that is almost like in the bank. It is money that we didn't plan on. Nobody foresaw this all year. It is there and I want to make sure that we use it wisely. I am okay with reducing it for the taxes because that was the number one thing as far as the citizens group who said the highest priority was the reduction of taxes. I want to make sure that we use it efficiently.

Maslen: Over the last few years, we have used fund balance which I refer to as savings to supplement our spending, our revenue. We have taken monies that we have had set aside from whatever the source that we have had in fund balance and we have used to balance our budget. Is that not the same thing as reducing taxes?

Ceretto: I don't see that is the same for me as a person. When the Modern Cmte. decided this (30-30-40%), it was extra money. It wasn't in the fund balance where it was just generally operational money. That is what my concern is. I don't want to treat it as just fund balance money. I want to treat it different so we know that the residents and all of us because it is all of our money. I want to make sure that it is treated as something different and everybody benefits from it. If you want to use it all for reduction of taxes then when Sandy proposes the budget we should work on it.

Langlois said I think we really need to look at how a budget process works. We have income coming in from Modern, CWM, taxes and other sources and we try to allocate all of that to the best use that we can in the budget. We get a preliminary budget and we look at it and talk about it and see where we should increase or decrease it. But, the funding for all of those items in the budget comes from these separate tax sources. This is going to be part of the income that we will wisely allocate to the most important needs. If it happens to be for a capital project or plow snow, wonderful. We are getting the extra money and we are going to need it to hold taxes down so why don't we just hold this in abeyance till we get the Supervisor's budget and then we can talk about where you want to spend it.

Johnson: We have been criticized about how the budget process has been going even before and since you got here. In 1995, when we first settled the Modern contract, each person on the Board in January of 1996 appointed a person to the Modern Cmte. It was a Community Host Modern Committee group. They went out and asked the public on a survey (on file) what the public would like to do with the 1.2M+ that we were going to get at that time. In 1995 there was no town tax so that 1.2M was extra money. Mr. Langlois alludes that the fund balances were 7M but what he is not trying to talk about is that you can't look at the budget and say that all of these are special district funds (balances) and you can't count that. You have A & B funds because that is all you have to work with. The rest are special district prices etc. The whole Board (including Paulette Glasgow, Harry Coppock, Tom Sharpe) agreed to take the Modern 1.2M and split it up 3 ways. 30% for a tax cut; 30% economic development and 40% was to be set aside for infrastructure. The 40% was a reserve thing. You couldn't put it into a capital fund because once you put it in there you can take out unless it is for that specific amount or project. We told Sup. Sharpe to make sure that the 40% was set aside. This year we put in

an infrastructure account with monies from a capital fund and initiated it and that is a fund that you can use for water, sewer, roads, etc. That makes more sense to me how you set that capital account up. That is where we should have put the \$400,000 from the 1.2M. That was never done. We have been through numerous budget officers and supervisors and I could never get a straight answer.

Maslen took exception to this remark.

Johnson: With all the confusion and the change over from the budget officers and the supervisors it seemed to be that the records that we were trying to find were not here or there. Now it is under control and that is the system that has been set up. What John is asking is that this \$262,600 or whatever it maybe is what are we going to do with it? What are we going to do with the money that we might get in payment in-lieu of taxes for some of these projects including the Power Auth? We need to look at long term planning and had it been done before you got here and we had done what we said we were going to do by putting that 40% aside in a fund we could of done Gorgeview and other things. You keep forgetting that \$800,000 went to the library expansion and other things like the parks, enhancement of the senior center etc. Everybody forgets all that stuff. They say you just ran down the fund balances. The money was spent exactly like people wanted it. Unfortunately with the cost of doing business in the town and union negotiations etc. and with CWM what once was 1M and now down to \$300,000 we have to start looking at these. We have to take a direction and start looking for other avenues of revenue other than the taxpayer. I do understand what you are both saying and also what John is saying. It is \$200,000 additional monies that we can use to reduce the tax that was implemented this year and I am willing to do that. To throw it into the pot and then decide what we are going to do and because this favorite little organization here and there and do it that way, then I would rather reduce the tax and look for other avenues. If I am here next year that will be my first objective.

Langlois called for the question.  
(Clarification was asked for).

Langlois: The question was do we take the \$250,000 and use it to reduce taxes, which means putting it into our budget.

The Clerk was asked to read the motion, which said: Mr. Ceretto's motion was to take the \$262,600 with the intent to reduce taxes outside of the budget. There was not second.

Maslen asked how do you reduce taxes outside of the budget?

Langlois said why don't you just say reduce taxes and we will vote on and do it.

**Ceretto amended his Motion to read to reduce taxes. Seconded by Langlois. Carried 4-0.**

Ceretto: In regard to the comments. Mrs. Gipp said that monies should be used to alleviate the taxes of those of us on the truck route whose property has been devalued by the truck traffic. If the properties have been devalued, I would like to request that the Assessor look at these properties being impacted again and re-evaluate the assessments and determine that they are at the correct assessed value.

Maslen said she was not sure if we have the truck traffic as yet.

Ceretto said there is truck traffic now and I am not sure if he goes over that at this time then maybe we should wait until the Modern has the 3 extra trucks. It doesn't hurt if he hasn't to look them over again.

Langlois: We are required and we get the extra money each year from the State because we do 100% assessment of every property in Lewiston (100% of it's value) based upon the selling prices of similar properties around. This is done constantly.

The houses that are on routes like this that might be devalued are devalued and if you ask our assessor I think he does a very good job of keeping those current.

Ceretto said that I don't believe that Mrs. Gipp feels those sentiments.

Langlois: If she feels her house is overvalued she can come to the Assessment Review Bd.

Maslen said she has done that.

Ceretto said it doesn't hurt for the assessor to make sure and check it again.

Ceretto: Marie Wright of 4980 Creek Rd Ext. said that the speed is not controlled by police on Creek Rd. and Ridge Rd. Chief Winkley said he would check it out.

Also, Anna Mae Rotella, 5171 Military Rd. who had a problem with the trailer truck dumped in front of her house. I talked with Supt. Reiter and the Clerk who suggested that a letter of request be sent to DOT to do a study to see if the problem can be alleviated.

Maslen said that she knows that Sen. Maziarz has already spoken with the DOT and that is the design of that road which is not helpful to her situation.

Langlois: She is on a curve and we have a sign that says "curve" and reduce speed to 25 mph and it is not obeyed. That is why the problem occurs and I don't know what else we can do.

Ceretto: You could ask DOT for suggestions. The Clerk was asked to send a letter to DOT asking that a study to be done in this area.

Nextel Co-Location Modification: This modification is a new thing. I have passed out a letter from the Towers Cmte. that states that they have received a request from Nextel for a modification to their co-location at the Model City Road tower. We have expressed our concerns regarding this modification and Nextel has addressed all of our requests. Attached are letters that have been written by Nextel and the replies. The Towers Cmte. feels that our concerns have been met, therefore we have no objections to this modification.

At the suggestion of Atty. Leone, we are asking subject to the Environmental Comm. and the Tower Cmte. who is not ready to act on this. I will move to table at this time for review under our SEQRA laws. Nextel has to complete an EAF for the Environmental Comm. review.

Atty. Leone suggested that this be sent to the Environmental Comm. and that Nextel complete an EAF for them. A review under the SEQRA laws is needed and the Tower Comm. will not act on that at this time. I will ask that this be tabled at this time and sent to the Environmental Comm.

Ceretto: The Towers Committee and the Environmental Comm. are in the process of looking at the local laws. With the Towers Law, we have provisions for new towers and co-locations. At this time, modification has never come up before and we have to address it as the towers are getting older. This is one of the items that we have to change our laws to adapt to the new changes.

Leone: Basically, we have provisions for co-locations and new towers but none for modifying the existing equipment and upgrading the equipment that is there. The Tower Cmte., Mr. Ceretto and myself are going to review the local law regarding this.

Ceretto: Mr. Leone is also looking at the Environmental Comm. with respect to recycling and the County Planning Bd. has asked us to re-look at our law.

Leone: Our local law is not in bad shape at all. It doesn't need a whole lot of work. It just needs to be kicked up a little bit to comply with the request of the County. I'll get some proposed language together and do that. I don't see that as a "big" deal. I thought it might be to begin with but I don't think it is.

Ceretto thanked Mr. Lannon for attending the meeting and explaining the plan of the golf course with regard to the SEQRA process and the wetlands and for giving us an update. At the next work session, I would like Mr. Lannon to do that for everybody and make this public. I feel that the golf course, one way or another and we all have opinions but it is going to be the residents plan to say it will or won't be. In the Sept. 23, 2002 minutes, I commended the committee on the good job that they had done and everyone is saying that the public is going to have input and I think it would relieve some of the tension if we could see this process. I hope that we will go through the full SEQRA process. This way the public can see and be part of the process. The Supervisor had said that the process requires that we do those things and there is no way to circumvent that because the State is not going to give us money if we do not do that. Everything is subject to the public's input. I would like everybody to hear it because it is your money we spend one way or another (\$105,000 so far) and you deserve to be part of this plan. I know that Mr. Langlois wanted to wait until the end of the SEQRA and Mr. Lannon told us that the process was not done, I think that is what we should be doing all along. We should be updating. I would like to make a motion that we put it on the work session agenda (Mr. Lannon), so that everybody can hear what we have heard on this process.

JOHNSON:

Citation: On 7/30/03 I came upon a major accident here at the intersection of Ridge Road and Model City Road concerning a motorcycle driver who was seriously injured. I couldn't not believe the camaraderie that came together with our police, Upper Mt. & Lewiston #1 firemen and town officials. This makes you realize that together we have a great team. Also, the Fire Police were able to keep the traffic flowing. Sean Gallagher from the US Customs & Deportation Agency helped by placing his belt on the victim to stop the bleeding. Also, helping was Thomas Brophy of that agency. I have two certificates of appreciation for these gentlemen who went above and beyond and they will be sent to their field office.

In talking to the police and firemen at the scene they think that the intersection is 90% better than what it was. But, it is still a problem. Chief Winkley and Officer Baird brought up that when traveling on Route 104 and you are making a left turn, cars are passing on the right and collisions happen. I would like the Signage Cmte. and the DOT to review if signs can be posted that it is illegal to pass on the right and go on the shoulder.

Winkley: It is already illegal to pass on the right, but you can have signs put up that say that and there are signs like that at intersections. As I said before I put the sign up where it is needed and that would be an intersection with a reminder of no passing on the right. It happens with people going westbound and they are making a left to go up Indian Hill and someone is going left to go down Model City. Also, if there is a truck going left up Indian Hill you can't see someone passing on the right. It is the person passing on the right who is at fault. I would recommend that you have a study done by DOT to investigate the turning lane at that intersection.

Johnson said we did discuss at the work session Northridge and Route 104. I did receive a reply from DOT on this that did not reveal any operation problems there. Also, I want the Town to follow through under the direction of Chief Winkley and the Signage Cmte. to ask DOT to investigate the signage.

Winkley said it is not wide enough to pass on the right.

Johnson said he would like to get a subcommittee together and talk with the DOT. There is a possibility that we could acquire some land from Washuta's that own the triangle piece and the piece on this corner so perhaps we could widen that corner and make a turning lane.

Langlois said we charged the committee to do that at the last meeting what you are talking about. Mr. Reiter mentioned the fact that we have such a wide right-of-way on both sides of those roads that we didn't need any other land and there was plenty of land there to do it. We just need to get the DOT to agree with us that it is a safety issue and should be done. I agree that we should proceed.

Johnson said he would be the liaison to the DOT

Drainage:

I received two complaints on drainage on Creek Road near Scovell Drive going north towards the Town of Porter. This appears to be a State issue. I would like to meet with Steve Reiter and look at it and then I will report back at a work session.

LANGLOIS:

Seniors: Going well but with the wet weather they have not been able to be outside as much but the programs are going well.

Golf Course: We are still hoping to complete this work soon. The Corp of Engineers made their last visit on Friday and Mr. Lannon is attempting to get a report from them. Hopefully, that will become a part of the revised layout that we have for the course and then this will lead to completion of the SEQRA report. To address Mr. Ceretto's question as to how many public meetings should you have on a golf course, it has been the opinion of the Golf Course Cmte. that until we know that a golf course is possible to be built there it really doesn't pay to have any additional meetings on that particular golf course. Early on when we had the idea of a golf course we had the principals including some professional golfers here who talked about it at a general meeting and then the proposal came up to the purchase of the property from ....that would be purchased by the State. The \$300,000 that we were granted, so whether we need another public meeting before we get into the SEQRA is a good question and we should think about that again. I will talk to the Golf Cmte. and see if they think that we should have that. Hopefully, this is now on fast-forward and we have the last item done. I think the Environmental Cmte. heard details of things that we have been looking at including the shellbark hickory. We have been trying to find out about this threatened species and it turns out that in back of Thornwood there are some wetland areas that have this species and they will have to be maintained and the new plan will allow this. We don't believe that there are any hickories of that type that will affect the design of the golf course significantly. These are all items that have to be worked out. A threatened species is not as serious as an endangered species but there are regulations controlling those and need to be respected and will be.

Developer/No. 5<sup>th</sup> St.: I have received some calls on the developer clearing lots on No. 5<sup>th</sup> St. We approved a 9-lot subdivision. There was heavy equipment clearing the trees and branches from the property that were placed on the Town's right-of-way. The Town trucks and equipment that were in the area picked up a considerable amount of this that was cleared by the developer. I talked with Mr. Reiter and he said it was in the right-of-way and we have the equipment and time to pick it up. This was a considerable amount of work in my view. We are not in the practice of picking up trees and debris etc. from a developer who is clearing a commercial development. Other developers that I have talked to were mystified why the Town would take on the obligation of taking away this debris. I have asked our attorneys to take a look at what we have in our Town code and nothing addresses it. They are in the process of doing something that will address this and will say that the Town will continue to pickup branches and leaves etc. from a personal property owner as we have always done but we will not pickup large quantities of clearance items from a professional developer. They will have to do it themselves. We will not have the option of doing that in the future. I have pictures that I will distribute to the Board. That particular change in the law is being looked at.

Leone: Mr. Brydges and I have talked about it. One of the things is we do have general specifications in construction. When the building permit is issued sometimes the building inspector says you have to remove the debris and I think in the past it has been handled that way. We don't have anything beyond that. There does not appear to be anything in our local laws. It has just been our practice to do it as the developer clears the debris.

Brydges said he found nothing in the local law that even says that the Town shall pickup leaves or debris from homeowners. He said they would draft a law that takes care of leaves and debris.

Medical Insurance-Part Time Officials: At the last meeting, the Board approved a policy manual change dealing with medical insurance for part time elected officials. However, the wording needs to be changed on page 51. It says part time elected officials taking office Jan. 1st, 2004 etc. and it should have read and I will make this as a motion:

**Langlois MOVED that part time elected officials *taking or holding office as of January 1, 2004.* Seconded by Maslen.**

Langlois: It was pointed out by our Personnel Cmte. that all part time elected officials should be treated the same and because we have council terms of 4 years it turned out that Mr. Kilmer and myself who will already be in office on Jan. 1st would not have been affected by this and we wanted to cover everybody so that is the reason for it.

**Motion carried 4-0.**

MASLEN:

Personnel: I would like to propose an amendment to the personnel manual. Presently, it reads that when an employee reaches their 5, 10 or 15 years in service, at that time they are entitled to an additional weeks vacation. The manual now states that that vacation cannot be taken until the first of the following year. Now, for someone who was hired in Oct. or Nov. this is not a big deal. But for someone who was hired on the 3<sup>rd</sup> of Jan. and has their 5-year anniversary date on the 3<sup>rd</sup> of Jan. 2003 and has to wait until 2004 to take advantage seemed a bit unfair. We noticed in our union contract that was not the case. The employees are eligible to take the additional week's vacation one day after they have completed their 5<sup>th</sup>, 10<sup>th</sup> or 15<sup>th</sup> year and then thereafter on the 1st of each year it becomes part of their entitlement of their vacation. What we are allowing here is changing this so that it says a full time employee will be credited with paid vacation leave in accordance with the vacation schedule directly below. That is indicated in the personnel manual. "An employee make take vacation leave after it has been credited. The employee will be credited on Jan 1st for the vacation earned in the previous year." That is how it is stated. "However, in an employee's anniversary year when additional vacation time is earned in accordance with the schedule, the additional vacation time will be credited the day after the anniversary date and thereafter on Jan. 1<sup>st</sup> of each year. A new employee will be credited on the employee's one-year anniversary date, and thereafter on January 1st of each year." The Personnel Cmte approved this and they have made this recommendation.

**Johnson MOVED to accept the changes as read to section 802 (Vacation Leave) of the Personnel Manual. Seconded by Langlois and carried 4-0.**

Web Site: Several individuals have said that the web site information has not been updated. We now have the capability of having town meeting minutes and dates posted and published on line so they don't have to come in and FOIL them.

**Langlois MOVED to purchase a time block necessary to bill pages to hold the information, update current main navigational link to the page and create necessary programs to the first half town board meetings, minutes and meeting dates posted on the Town's web site. It will be approximately 10 hours at**

**\$55.00 an hour. Funds to come from B-1680 Data Processing Budget. Seconded by Johnson.**

Langlois: Is this a one-time expense for the software to get done?

Maslen: Yes.

Langlois: Then you scan it in and the software picks it up?

Maslen: Exactly. This is part of what will be training for our employees.

**Motion carried 4-0.**

Public Hearings NYPA: There will be 2 public hearings on the NYPA scoping process at 2 & 7 p.m. on August 13<sup>th</sup> at Niagara Falls High School. It is open to the public.

Engineering – Award Sanitary Sewer & Water Infrastructure Construction Contracts: We have not received word from the Comptroller's office. We will not be awarding any of these contracts.

Joint Police Mtg. We will have a joint meeting with the Town and Village regarding the Police Dept. on August 21<sup>st</sup> at 5:30 p.m. at the Village Hall.

Water/Sewer Reports: You have received reports on their activities.

Legal: We do not have anything updated on the brush clearing. Do we have anything on the parking signs?

Brydges: You have info on the swimming pools and the amendment on the standing, stopping and parking restrictions. I am asking you to review this. I had put something together because in reading the Vehicle & Traffic Law they do give the Towns the right to establish traffic signs. In reading the local law thereon and finding out that wherever the Chief wants to put up a parking sign, he has to write the Town Board and have it amended. The section states that no driver shall park a vehicle in any area specific if there is a no parking zone. Then it lists the following places. I am not asking you to abdicate your duties, but you might want to think about delegating your duties to the Police Comm. where if the Chief wants a sign that is warranted they could take it to the Police Comm. and they could give him the authority to do it. Think about it and we can straighten it up at the work session. It came up because of Pletcher Road. Other than that, we can pass a local amendment to add Pletcher Road. I don't think it makes sense. We would also have to have a public hearing.

Langlois asked Brydges if he has something drafted for what he just said?

Maslen: Here it says an amendment to Article 3 of Chapter 24A of the Lewiston Town Code. 24A-4 Stopping, standing and parking restrictions. B. Wherever no parking zones have been established no driver shall stop, park or stand any vehicle in any part of said zone. No parking zones are established under the direct authority of the Town of Lewiston Police Commission. He has introduced this as alternative as to what we have now which states specific roads that no parking can be.

**Johnson MOVED that a Public Hearing be held on August 25, 2003 at 6:45 p.m. regarding the stop, standing and parking restrictions. Seconded by Langlois and carried 4-0.**

Maslen: We also have an amendment to Local Law §30-58 that is the swimming pool permanent. The amendment should read as follows:

A. The term swimming pool is defined as any structure intended for swimming or recreation bathing that may contain water over 24" (610mm) deep. This

includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

B. All permanent swimming pools, if portable structures, will not require the acquisition of a building permit for the structure, but will require a building permit before the installation or erection of the fencing and also necessitating conformity to all set back requirements of the particular districts where in they are located.

C. Fencing requirements

(1) "All permanent swimming pools, unless otherwise provided for hereinafter..."

(2) "All permanent swimming pools..." (no change)

The purpose of this amendment to the Local Law is to conform with the NYS Law effective Jan. 1, 2003, whereas the definition of swimming pools includes any structure so long as it may contain water over 18". The State law is 24" and you have 18 so I am confused. Under our Town of Lewiston Code, plastic wading pools would have been exempt, but no longer.

My question to you is that are we trying to come into compliance with 24" as directed by the State law or are we no longer going to look at 18"?

Brydges: 18" under the local law and 24" under the State law. So we are leaving it at 24".

Maslen: The commentary though is the purpose of this amendment to the local law is to conform with NYS.

Brydges: The problem is that under our local law, this memorandum indicated that I didn't think that the wading pools and the plastic pools were covered. That is why I thought they were exempt. Then I found out from Mr. Coulter that the State code that became effective Jan. 1<sup>st</sup> does indeed mandate that pools that may contain water over 24" must be fenced. It will be a heartbreak for a lot of people who own them and that is the State law.

Maslen: The information that I received is to protect children and initially it was to protect children under 5 years old.

Brydges: The memorandum that I gave you last week does have a case where the Village of Bergen asked specifically of the Dept. of State exactly that question. Do these plastic pools have to comply with the code? Their opinion is the law because it was written by the State Department.

Maslen: The State law would supercede our town law.

Ceretto said that the problem is the stores that sell these and don't tell the people who buy them..

Brydges: At the very least, this Board is going to have to make some recommendation to the Governor, Attorney General or the Legislature to mandate that these pool companies either recite that law or ask consumers to check with their local law.

**Langlois MOVED that a Public Hearing be held on August 25, 2003 at 6:15 p.m. to consider amendments to Local Law §30-58 Swimming Pools. Seconded by Johnson and carried 4-0.**

Langlois: I think a lot of the stores are aware of this 24" because my wife purchased a pool at Target and it is 22" and well within the law here. I can inflate it and use it because it is 22". Maybe some of the stores are aware that 24" and above you would need a fence.

Johnson asked why the 2 inches of water makes a difference? It's the law and who makes the law?

Maslen: I guess it is 2 feet and that was the compromise.

West Nile Virus Concerns: I received an article from the Buffalo Audubon Society regarding this. (Article on File) They are suggesting that you take the precautions etc. Their message is that for most people the West Nile Virus is not fatal. It is to those whose immune system is compromised.

Brandon: I am requesting of Mr. Leone to look into amending the current refrigerator law. It needs to include freezers, air conditioners and propane tanks. I have asked him to look into this because the law needs to be amended to also include the proper disposal of these items.

Leone: We have a local law that talks about discarded refrigerators but it does not take into account freezers etc. It should be amended so I am asking to do so.

It was determined that the two minute statement by residents would be held after the executive session.

**Johnson MOVED to go into Executive Session. Seconded by Ceretto and approved. Time 9:55 p.m.**

No action was taken.

**Johnson MOVED to reconvene at 10:25 p.m. Seconded by Langlois and carried 4-0.**

Residents:

Paulette Glasgow of 836 The Circle. Regarding the accident on July 30 here at the intersection, I would suggest that when you talk to the DOT, ask them if they can change the signal light and have a delayed turning arrow. I think you would get that before you would get a turning lane.

On the comprehensive plan, Roberts Rules of Order parliamentary procedure says that you just can't have an executive meeting. You must have a regular meeting and then go into executive session. I heard Mr. Brydges say let's have an executive meeting.

In regards to the 2003 budget, I heard Mr. Langlois say that the Town Board passed the budget this year. You didn't pass the budget. If you remember time dwindled down and the County actually passed the budget. Nov. 20<sup>th</sup> came and you hadn't passed the budget and the budget went onto the County and the County passed it. It was in all of the newspapers.

Langlois: You are entirely right. The budget became the budget because ...

Paulette Glasgow: The law reads that when you don't pass a budget it goes to the County. This has happened before and the County passed it.

Reiter: I would like some clarification. Did we hire those men back because from what I understand Mike's proposal was to rehire the men and I am to meet with the Board or the Supervisor and the Finance Officer? The vote went 2-1 and 1 abstention.

Maslen said we have to have a board majority.

Langlois: Nothing can pass without 3 votes.

Reiter: Okay, I didn't want to do anything wrong tomorrow.

Paulette Glasgow: Then, if you get a board majority for that then everything that you did tonight did not have a board majority doesn't apply.

Maslen: That's right, anything that does not have 3 votes.

Paulette Glasgow: So, you have to go back and regroup that at the work session meeting? You have to bring that all up at the work session meeting or the next town board meeting or are all of those issues completely moot that you passed by a non majority vote?

Langlois said that was the only vote that didn't pass.

Maslen said it was the only vote that was not a 3 or 4 vote.

Paulette Glasgow: And your reasoning for this is under what legal precedence?

Brydges: Section 63 of the Town Law.

Paulette Glasgow: It doesn't apply in the open meetings law? The classification of a meeting?

Brydges: It says a majority vote under section ....I don't have the law here.

Paulette Glasgow: What is a majority? Is it a majority of...

Brydges: Statutory ???? is a majority of the board and it takes a majority of votes in all instances to pass any thing.

Paulette Glasgow: So, in other words there is not a quorum here tonight?

Brydges: Yes, there are four people.

Paulette Glasgow: So, there is a quorum here tonight and that is a majority.

Brydges: A majority of four but it takes....but the law says specifically that it takes three ... a majority of the whole Town Board to pass.

Paulette Glasgow: Under Section 63? I just caution the Board here if this is incorrect you are leaving yourself open for litigation.

**Motion by Langlois, seconded by Ceretto to adjourn Carried 4-0.**

Time: 10:30 p.m.

Respectfully submitted and transcribed by:

Carol J. Brandon  
Town Clerk

