

**TOWN BOARD MEETING**

**July 28, 2008**

**5:30 P.M.**

Present: Supervisor Newlin; Councilmen Bax, Edwards, Johnson & Palmer; Town Atty. Leone; Deputy Town Atty. Boniello; Eng. Britton; Adm./Op. Lockhart; Finance Officer DiRamio; Bldg. Insp. Masters; Deputy Supervisor Elgin & Town Clerk Brandon. 6 residents and 3 press reps.

The Supervisor opened the meeting at 5:45 p.m. followed by the Pledge of Allegiance and a moment of silent reflection and noted the passing of the mother of Don Cosentino, Fire Inspector.

**RESIDENTS:**

Amy Witroyl of 4726 Lower River Road. I want to thank the Board for the great job that you have done on the hazardous waste issue. About 90 minutes ago, we received information about the siting plan. I have brought you excerpts and if the Board would allow me, I would like to inform the Board on some of the key elements.

Newlin: I would like to put this under new business.

John Ceretto, Niag. Cnty Legislator of 685 Cayuga Drive. The Niagara Cnty. Legislators passed a resolution on Tuesday which addressed the issue of the DEC who is planning to send PCB's here. The resolution was read. (Resolution is on file in the office of the Town Clerk). I know that you will all support this. He referred to a personal experience of a local resident and stated we have to stop any trucks that contain hazardous waste coming into our community. This is also an issue for anybody that is on the transportation route. Thank you.

**AGENDA:**

Newlin: I thought that Mr. Palmer would not be here so I had moved his items to other councilmen. We will move the S.P.C.A. contract, Bradt S.D. and mosquito control back to Mr. Palmer.

Palmer: Donovan Issue.

Edwards: Personnel/Contract Negotiations.

Bax: Claims/ Executive Session.

**Edwards MOVED to accept the Agenda with additions as noted. Seconded by Bax and carried 5-0.**

**MINUTES:**

**Edwards MOVED for approval the minutes of 6/23/08 P. H. and 6/23/08 RTBM. Seconded by Palmer and carried 5-0.**

**ABSTRACT:**

**Bax MOVED to approve the Regular Abstract of Claims #1968 to #2392 and recommended payment in the amount of \$824,400.27. Seconded by Johnson and carried 5-0.**

**Bax MOVED to approve the Post Audits in the amount of \$38,239.35. Seconded by Palmer and carried 5-0.**

**Bax MOVED for approval of payment for the additional Post Audits to Home Depot \$285.75; Office Max (HSBC Business Solution) \$828.05; Office Max (HSBC Business Solutions) \$57.53; Sam's Club \$858.08; Eaton Office Supply \$112.93; NYS Unemployment Insurance \$1419.90 and Con-Way Freight \$403.00. Seconded by Johnson and carried 5-0.**

Newlin asked to hold a payment to the Historical Assoc. of Lewiston in the amount of \$85,000 for legal opinion regarding the contract. This is the first Greenway project. I would like this under Executive Session.

OLD BUSINESS:

Street Lighting-Chicora Dr.

Britton: You have a proposal from National Grid for 2 street lights which Mr. Lannon reviewed after meeting with National Grid. (See letter)

**Edwards MOVED to install 2 street lights on Transformer 653R and Handpole 723R. Seconded by Johnson and carried 5-0.**

Street Lighting-Vista Lane.

Britton said that the 2<sup>nd</sup> proposal is just for a street light at the intersection of Vista Drive and Ridge Road.

**Johnson MOVED for the installation of a street light at Vista Drive/Ridge Road. Seconded by Bax. Carried 5-0.**

Britton stated that this is the only light proposed at this time for this subdivision. We had made a recommendation that in the future with more development there is one more location that we proposed to put in another light. We will look at that later on.

CORRESPONDENCE:

1. A letter from the Town Clerk with the latest notice from the IRS with respect to the mileage rate reimbursement. As of July 1, 2008 the rate increased to 58.5¢ from the previous 50.5¢.

**Palmer MOVED to approve the mileage rate as of July 1, 2008 at 58.5¢. Seconded by Bax and carried 5-0.**

NEW BUSINESS:

Amy Witroyl: Late this afternoon, we got word that the draft siting plan has been updated since Nov. 2003. We were told that at the time because the next draft was going to be issued, the State was required by law in 1987 to draft a hazardous waste siting plan and adopt it for use as a guidance document. Any commercial treatment storage for disposal ....that plan was issued in the early 90's. The Town of Lewiston and the Town of Porter litigated against the State and had that voided in 1994 or 1995. Unfortunately, in the meantime RMU-1 was sited in 1993. The judge in 1995 ordered the DEC to go back to the drawing board and rework the siting plan with all deliberate speed. That was in 1995. So with all deliberate speed...in November of 2003 we had the second draft nearly 10 years later. We had hearings in 2004 which many of you attended. We were told there would be a new draft issued this year and it was issued today. We were also told that we would get responses to the comments we made 4 years ago. I have not seen those yet. I have not had an opportunity to go onto the DEC website.

I would like to review with you some of the key findings and recommendations. On the positive, hazardous waste generation in NYS has been declining. We have been saying that over and over again. EPA's national capacity charts have concluded it is adequate until the 2020. The DEC based on its analysis of the northeast market is considered that the capacity is adequate until 2026. That is based on what we have today. That is without RMU-2. The other positive is that NYS says that it reaffirms the high hierarchy for the management of hazardous waste (recycling, treating, and destroying) have found that land-filling is the least preferable method for managing hazardous waste. In the recommendations, the DEC has said preventing and reducing hazardous waste generation is a top priority for the State, has mandated by the preferred hazardous waste management hierarchy. This approach will be continued to be used to guide all hazardous waste management policy decisions including permitting and other regulatory activities. That is very good news for us.

New in the plan that we didn't see in the previous plans is the emphasis on potential for climate change. While national capacity exists for NY's hazardous waste, other factors such as economics and potential climate change issues may impact the handling or management of hazardous waste. I can see that as a net positive for us and I hope in permitting issues like the water table being 2 feet from the surface around here in the springtime that the context of climate change issues and those types of things are considered very heavily.

Now, for the more challenging news rather than bad news, because I am absolutely confident that even though we will disagree with the DEC that the facts are on our side and that over the next year or two the siting process is rolled out with State wide hearings

and a chance to comment. Then the DEC going back (it has been 4 or 5 years) and take our comments, jump on them this time, respond to them and issue them and there is going to be a second round of public comment. Maybe not public hearings, but certainly public comment. At least that is what we understand from the DEC. We hope to overcome these challenges but absolutely confident that if politics or anything else intervenes that the facts and the law are on our side relatively to these challenges that are going to review now and which are the subject of the handouts that you have. The State has found that hazardous waste management facilities in this draft are equitably geographically distributed. On the handout the column "handling method" we see recycling, reclamation, land-filling etc. In the handling column there is only one "L" and we are the only landfill in the State and the State Siting Law requires that the State consider this type of hazardous waste facility when determining geographic distribution. So, if there is only one in the State, I find it difficult to conclude that we are somehow geographically and equitably distributed. The other thing that the State Siting Law requires of the DEC is to consider the amount of hazardous waste. Not only the type but the volume. In the last column you see quantity received from off-site. You will see that there are probably 2 sites with data from 2005 and on another page there are 3 more. I don't know if those names were over 3000 tons. Obviously, there are 2 sites that are closer to 145 or 160,000 tons.

The Revere Smelting and Refining operations does recycling and reclamation. But, how much hazardous waste do they start with theoretically on Jan. 1st...zero. How much do we start with? Take the Bills football stadium; fill it to the brim, 22 times...that is what we have. That is the ridiculous aspect of the State's conclusion that we are somehow geographically distributed, either by height of hazardous waste facility or by volume. That is why that part of the law is very important and thankfully attempts to strike that from the law last year. Page 1-15 shows there is only one land disposal facility in 2005, which is us. The quantities by method (Page 1-16) where you see land disposal vs. reclamation cover it. They don't keep the stuff around and we are the only one that had it forever.

In terms of the negative or the challenges, that is one of the two main thrusts. They need the facility. We think there is a lot of good data in here to suggest no. Are they geographically distributed? That is where we disagree. The other major negative that is more challenging is that the State is saying that since the year 2005 that NYS has become a net importer of hazardous waste. I would like to remind the Board through your efforts in 2004, every municipality and including up to our federal delegation and our County Health Dept. called on the State to uphold the health order on the CWM property that is there to put in controls to protect against the risk of potential residual radiological contamination that was on that property from the Atomic Energy Commission (Manhattan Waste). As a result of 2004 despite CWM's request to have that order lifted, the NYS DOH reaffirmed that order and as a result in addition to a number of other problems with CWM's application that application is now more than 4 years behind schedule. With the siting plan it is going to be more like five or six years. So, what does this have to do with NYS being a net importer...CWM historically as you all know has taken in close to 3/4's of their waste (sometimes more) from out of state and we service half of the U.S., Canada & Puerto Rico. Because CWM's application is behind schedule, they have artificially lowered the amount of waste that they are taking in and as a result for these past few years the State looks like it is a net importer, 30 to 50,000 tons, while CWM is operating easily at 110,000 tons below its' usual. That number is factual but it is very skewed and it is certainly in no way shape or form indicative of what we are in for if RMU-2 is sited. Then we will go back to the high volumes of 250-280-300 and they have been as high as 350 (tons) according to the siting plan.

It is very important for us to remember that there are only 12 states left in the country, Texas and California have multiple facilities. I believe that there is another facility in Illinois that is closing. We hope that in the siting plan we will have the chance to talk about the State's view that we are net importers just in the past couple of years is really an anomaly.

Lastly, the State has found what we have been saying over and over again that Brownfield waste does not go to a hazardous waste landfill. There might be a small sliver but the real message from Gov. Spitzer last year erroneously stated that we need in this state hazardous waste landfill for ground ????. That is absolutely false. The DEC siting plan that found while Brownfields cleanup have increased significantly, there has been no increase in hazardous waste landfill and that is why. Now, the State did put in a

little caveat saying well for people who want to protect themselves from liability, cleaning up Brownfields they might want to send that to a hazardous waste landfill anyway. I have never heard of it. I have spoken with other hazardous waste landfills and they have never heard of that either. But, I will reserve comment on that excuse until I see what information the DEC has to support that and any sort of influence. But, that is good news for us. We can clean up NY without this facility. We know the Hudson River PCB's are not going to be landfilled here and the only thing left on the radar is the Queensbury waste. I hope that if you haven't had an opportunity to read my recent letter in the *Sentinel* that you will look it and consider it carefully. I don't know what resolution Leg. Ceretto has given you as there were 3 different drafts. There was one that was changed at the last minute on Tuesday. I was out of town visiting the people in Queensbury to make sure that they understood our issues and to make sure we understand theirs. We had an excellent exchange. They are supportive of what we are trying to do. I think the Queensbury issue is a done deal under law and I am not sure if there is anything that the DEC can do if they wanted to. The problem is too much capacity in the market place. I was asked by one member of this Board for my input on the resolution which I have provided. I don't know what Mr. Ceretto provided and I would be happy to consult with you. I would urge you to contact the most concerned and informed residents that we have in the community before you take any action in the future.

Newlin: There is a difference between what we are considering tonight. I want to thank you for helping this Board with the language on the resolution that we are dealing with tonight. The advantage of the one that the Town is considering is that we are urging NYS to not permit any additional disposal capacity. We think that is the problem here. We already have forecasts that say we are good in terms of capacity in this State but somewhere out in 2020 & 2026 and if anyone thinks the fuel costs are going to get any cheaper between now and then, I think you better take a look at what the oil markets are doing. This rising fuel costs and the affect it has had on transportation costs is another factor that is working against industries and others from hauling the hazardous waste from another part of the state or another part of the country to places like CWM. Transportation costs are having an affect on the financial viability of taking waste to places like CWM.

Amy Witroyl: From out of state you would think, yes. If you want to use this facility and go to the closest one....if someone decided too in Michigan or Alabama it would create more cost factors to over come then maybe. I am hoping that these increased costs will win us back to the point where people aren't landfilling at all. I spoke with one very large generator who landfills waste and they are in the recycling business and they said they could recycle more than they do but it is not cost effective. I am hoping that there is a silver lining to gas prices but if it is, that is going to increase waste minimization right at the source. The other important thing with transportation is that according to the CSX website it is ten times safer to send something by rail than by truck. It is also less expensive. So, if you make up in safety and rail costs then this is something to keep in mind. We want to keep it that way. Other facilities in Ohio and Michigan have rail access. With the issue of transportation, the siting plan did have comments that the transportation of hazardous waste and the accident rate are exceedingly low. In terms of the fines and the penalties for transportation problems, leaking trucks, etc. that are identified at CWM gate and the only information that we have are violations that are at the gate. If a state tickets a truck on their way here in Maryland or in Albany that ticket is not going to go into the DEC data base. They don't know there has been a violation and they do not know where that truck is going.

Newlin: That State's assessment that there is equal distribution of hazardous waste in this state or anywhere in the northeast is absolutely laughable. I know that when the State was doing this before didn't classify a place that was receiving paint as a hazardous waste receptacle a few years ago. They would count that as one and we had one because we had CWM. I really think that any fair analysis would say that this area has more than covered its' share of the brunt of national burden of hazardous waste. The disappointing part to all of us while every other state in the northeast has somehow managed to be rid of disposal sites like this, we have not. I want like to thank for your work Mrs. Witroyl.

Palmer: What was the reason why the DEC changed its' decision to utilize thermal absorption?

Amy Witroyl: Actually, they didn't. Their original record decision called for 100% thermal absorption. When they went out to bid, they only got one bid. Under law, the DEC tells me that they were not allowed to accept one bid if it exceeds the engineer's estimate. They could not accept that bid. Why did they get one bid? There are 2 types of methods of thermal absorption, being direct & indirect. The indirect method is required under law for PCB concentration above 55 parts per million. There are a few more people that own the equipment to do the direct method which is under 55 ppm, so when the DEC rebid their second round, they said let's cut this in half. We will do the under 50 ppm and we know we will get more than 1 bid and the over 50 we will send it to a landfill because we can't get more than 1 bid. They think that the 3 people who own that equipment in the market and the one in Chicago had equipment under repair supposedly. So, they did not call up and say they were not bidding because this was speculation from conversations they had. The second guy who I believe was from Mass. and working on an EPA project that could take 1-2 years and the third person was the only bidder. So the price was somewhat inflated. Then you add that to the additional capacity, the excess capacity to landfill that caused those prices to drop like a rock. We did not have excess capacity. This is the battle that we are fighting in the siting plan and that is not just a policy for New York but throughout the country.

Palmer: So, instead they are going to put thousands of people at risk by transporting 750,000 tons.

Amy Witroyl: We get that every day and the chemical waste that we get is as potent and very often more dangerous than PCB contaminated soil. I was surprise to see it on the front page of the *Buffalo News* but it is a wakeup call & reminder. Whether we get 10 shipments of 7500 tons or 1 shipment of 750,000, this is what we are getting all the time from all over the country. Stopping the shipment is not going to solve the bigger problem. The last thing we want to be doing is dividing New Yorkers. We need everyone to stand together and say this state does not need a facility and stop siting them so that we can be sure that we are going to get more than one bidder next time. We can be sure that when we are projecting hazardous waste management practices into the future we are also putting into place the policies that are going to encourage even more technology and development. I am so proud of what the American industry has done to rise to the challenge of waste limitation. Between 1995 and 1999, the generation of hazardous waste measured by volume dropped in this country by 80% and it is not because the same factory went to China. It is primarily because of technology. While we have some information into this siting plan, we have a long way to go. Again, thanks to this Board for the great job on this issue and we would not have come this far without you.

NEWLIN:

Legal: Wireless Co-location/Niagara University.

Leone: I have spoken with Attorney Nearpass for Verizon. There are some final things that the Tower Cmte. had requested. One was the proof of removal bond in the amount of \$20,000 renewable at five (5) year intervals. We have been assured in writing by counsel that upon their application for a building permit that they would file it. It is clear that a building permit will ensue upon the display. Secondly, that they provide Niagara University's proof of security protocol from the door to the rooftop and again in writing that they have contacted the university requesting a letter outlining their security protocol. Also, that the access to the rooftop in kept locked at all times so students would have not access to it. Lastly, they have agreed to install appropriate signs on the door to the rooftop of O'Shea Hall. They have indicated that they will do that. The Tower Cmte. has approved it and I believe that they have come through all of the steps that they are required so I see no reason why the Board can't vote on it at this time.

Newlin said that there are reps here from Verizon and Niagara University. Are there any questions on this matter? Both the Tower Cmte. and the Environmental Commission have looked at it and with the stipulations that Mrs. Latko stated, Verizon has agreed to take care of them.

**Johnson MOVED for approval of a Co-location wireless telecommunications facility submitted by Upstate Cellular Network, d/b/a/ Verizon Wireless at Niagara University. Seconded by Palmer and carried 5-0.**

Boniello and Leone stated that they have litigation matters for Executive Session.

Hazardous Waste Resolution:

Supervisor Newlin read the following Resolution.

**RESOLUTION**

**WHEREAS**, the New York State Department of Environmental Conservation (DEC) has decided to transport about 750,000 of PCB contaminated waste by truck from “the Luzerne Road Site in the Town of Queensbury” to a hazardous waste landfill facility located in the Town of Porter and the Town of Lewiston, and

**WHEREAS**, the DEC did not pursue its original decision to utilize thermal desorption to permanently remove these wastes on-site, and

**WHEREAS**, the transportation of hazardous waste along public thruways and roads for land disposal in Niagara County places unnecessary risk on the environment, health, and welfare of Lewiston residents, and

**WHEREAS**, most hazardous waste shipped to Niagara County originates from outside New York State, and

**WHEREAS**, all wastes requiring disposal at a hazardous waste landfill pose a risk to human health and the environment, and

**WHEREAS**, land disposal of hazardous waste is the least preferable method of managing such wastes, and

**WHEREAS**, New York should not add hazardous waste landfill capacity anywhere in the state, therefore,

**BE IT RESOLVED**, that the Town of Lewiston requests the DEC develop a safe alternative plan for disposing of the Luzerne Road wastes that would not cause unreasonable delay or endanger the health and safety of residents, in order to avoid transporting 750,000 tons of PCB waste to Niagara County, and

**BE RESOLVED that the Town of Lewiston calls on Governor Paterson to adopt a policy to end hazardous waste landfill operations in New York State by not permitting additional disposal capacity, and to direct the DEC to consider safer alternatives to land disposal as the highest priority in determining remedial actions.**

A copy of this resolution shall be forwarded to Governor David A. Paterson, DEC Commissioner Pete Grannis, State Senator George Maziarz, and Assemblywoman Francine DelMonte.

**Newlin MOVED for adoption of Resolution as presented. Seconded by Johnson and carried 5-0.**

Newlin said he hoped that the State will act responsibly this time and really makes some good decisions that just doesn't protect our short term interest but protects the citizens of Lewiston and the rest of New York for decades.

Peach Festival- Program Book Advertisement:

**Edwards MOVED to purchase a ½ page Peach Festival Program Book at a cost of \$100 with funds to come from the Celebration Account. Seconded by Palmer and carried 5-0.**

Water Prize Resolution:

Newlin: This resolution will recognize work that is being done on both sides of the border. I have participated with a leaders group from either side of the Niagara River and we are trying to develop the proper and best management procedures to make use of the water here. There are numerous issues around the water. The Stockholm Water Prize is probably the most prestigious award in conference when it comes to water protection and sustainability issues. They have recognized a number of large projects. This is our endorsement of submitting for consideration to the committee the work that is being done by the International Joint Commission (IJC) that works on water issues between the U.S. and Canada.

**Newlin MOVED that Town Board of the Town of Lewiston resolves to take the lead in nominating International Joint Commission for the 2009 Stockholm Water Prize and takes steps to secure endorsements from other relevant actors for the nomination of the International Joint Commission, i.e. the Great Lakes St. Lawrence Cities Initiative (GLSLCI), Association of Municipalities of Ontario, (AMO) and local municipalities on both sides of the border. Seconded by Johnson and carried 5-0.**

Mosquito Control:

Newlin: It has been a very wet summer and this has led to the perfect breeding conditions for mosquitoes. We have considered spraying in the past as have other towns and my disposition is that we hold off spraying for the following reasons....in 2004 the Board considered spraying and I did not support it then but the majority thought it was the best thing to do and I can appreciate that. We did have the N.C.H.D. come in and measure mosquito population before and after the spraying. Mr. Sharpe has provided the Board with information on this. The study done by Health Dept. did not show a noticeable affect on the mosquito populations here in Lewiston. So, I combine that effectiveness concern with 2 other things. One is the range of the mosquito which is 20 miles which means if we spray and it was to be affective we could still count on mosquitoes from Porter, Niagara etc. If there is going to be some spraying, I think it has to be done more comprehensively and probably taken on by the State or the county so that wide areas can be taken care of. The other concern that I have is that of health. When we considered spraying before I received a number of calls from asthmatics and other respiratory sufferers saying they were not comfortable with this spray from the airplanes. The jury is out when it comes to long term health effects are on humans and that warrants some hesitation by any board. Wheatfield has been spraying but they are much more defoliated than us. We have a lot of trees which provide high canopy cover which is where a lot of the pesticide will reside instead of making it to the ground. As residents call with mosquito complaints, we have directed them to get dunks which are available at the Highway Dept. and the Town Hall.

Palmer: This issue was brought up at the last meeting after a resident's statement and by my own observation. We did see the cost estimates and potential benefits but I think at this point we are better off going with dunks and this is partially because of the costs. Being almost into August and with not much of summer left, I think if we were going to undertake a project like this we should do it earlier. I have not personally noticed much of a problem in the last few weeks which might be contrary to where other people live. We looked at the map and the cost and now we will be talking later on about some shortages with fuel and other areas of the budget which we did not anticipate. I don't know if it is that prudent right now to undertake a major cost like that.

EDWARDS:

Drainage Dept. The projects that Supt. Reiter currently has are quite expensive and from now to the end of the year we need to find roughly \$30,000 to put into the drainage account to get them to the end of the year. Quite a bit of drainage work has been done and there a lot left to do.

DiRamio stated that funds could be appropriated from fund balances to cover the shortfall.

Edwards: There are 2 problems....one is fuel in the Drainage Dept. and the other is materials to do some of the projects that have been directed to be done. Estimated total is \$30,000.

**Edwards MOVED to transfer \$30,000 from fund balances to cover the unexpected shortages. Seconded by Johnson and carried 5-0.**

Highway Dept.

It is reported that there will be a shortfall due to increased fuel costs. In September we will be out of fuel. Mr. Reiter estimates we will need \$80,000.

Newlin said with the greater anticipated sales tax revenue we will be able to handle this. Let's get a better estimate from Mr. Reiter and we can vote on that in September. Edwards stated that there is reimbursement from other departments and roughly the Highway Dept. needs \$40,000 of the \$80,000 to exist. We will put this on the August board meeting.

Highway Equipment:

Supt. Reiter has asked to purchase a 2000 roller with 1883 hours on it from Ken Young Paving in the amount of \$7000. Town mechanics have inspected the paver. Funds are available in 5140.0200 to cover the costs. This equipment is used in cul-de-sacs and we currently have been renting this equipment. Cost of this new would be \$27,000.

**Edwards MOVED that the Town purchase a 2000 roller from Ken Young Paving at a cost of \$7000 with funds to come from 5140.0200. Seconded by Palmer and carried 5-0.**

Town Hall Landscaping:

Edwards: Currently, the landscaping around the Town Hall is 30 years old and it cannot be maintained. The Clerk has had a landscape architect employed by A-1 Landscaping and has provided us with conceptual drawings. The plantings are maintenance free. There are 2 proposals...one to do around the sign on the front lawn and the other is to do the Town Hall grounds. I would like to see the Town Hall done first with the sign being looked at next year.

**Edwards MOVED to permit the Town Clerk to enter into a contract with A-1 Landscaping in the amount of \$5000 with funds to come from the Town Hall Renovation Account.**

Bax: Should we get other estimates? I would think there would be different options from other businesses.

Britton stated that each landscaping business will come up with their own conceptual design and it is not like you are bidding on bushes etc. I would suggest that you establish a budget and then look at conceptual designs. \$5000 is not an unreasonable amount.

Edwards said he would like to see a Town of Lewiston business do this work. I don't think it is legal to limit it to the Town of Lewiston but I would like to see a Town of Lewiston business profit from this project.

Boniello said for the amount you could get verbal bids.

**Bax MOVED to obtain 3 verbal bids for a landscaping project at the Town Hall not to exceed \$5000 with funds to come from Town Hall Renovation Funds. Seconded by Palmer and carried 5-0.**

Thornwood Drive Median:

Edwards: We have received correspondence from Mr. James Page of 800 Thornwood Drive. With respect to the island, we recently did some drainage work there.

Johnson: Boulders were put in to prevent the previous owner from driving across the median. Who owns the median? (the Town does.)

Boniello said he spoke with Mr. Reiter and he is requesting a 14' (right-of-way) cut in the median so the homeowner can pull into his driveway.

Palmer: The island is totally ludicrous in that this resident cannot turn left into his driveway. The nature of his business (he has a big wrecker that he drives) has to drive through the subdivision of nice homes and children playing and I think it is unsafe. I think it contradicts the esthetics of the area. Mr. Reiter has said it would not be a problem putting in this 14' accessory through there. It does make sense to do it.

Edwards: I understand that the island is being maintained by the Homeowner's Assoc. and it is muddy with tire tracks in it and does not have curbing around it. Boulders are



dangerous and are not needed in a median. I think there could be 2 islands with curbing around them but how would we fund it or would it be the association's responsibility to put the curbs in.

Boniello stated that Mr. Page's home is not in the association.

Palmer said he has never seen where you only have one-way access. Usually when you have a median you can access the roadways in 2 different directions. This is virtually a dead end when you go in. It does not make sense.

Edwards: Reiter took the boulders that were directly adjacent to the driveway out last week. Is it within our rights as town council to put a right-of-way through that island or not?

Boniello: We should determine if we own it.

Bax asked if it would be easier just to take the boulders out of there.

Palmer: What we are proposing is putting two islands where there was one with an access point with this resident's driveway in the middle.

Newlin said he would like Mr. Reiter's input on this as he is the one who is in charge of the safety of the roads. However, we do not put in curbs.

Palmer said that there was to be paving work done there but did not have the timetable for it.

Masters said that if you do put a turn in the median and a person pulls in to make a left turn and a person is coming out of Thornwood and you have to wait, is it going to cause a traffic problem coming in off of Creek Road into Thornwood that you do not have now. (Residence is in far enough)

Johnson asked if anyone had talked to the Homeowner's Assoc.

Palmer said it is not their median.

Britton said you might want to talk to them as this is not a new issue.

Palmer said maybe we should talk with them and let them speak. But do they really want this truck driving through their neighborhood?

Edwards said the truck is not the issue....there is a safety issue there.

Newlin asked if it is the Board's purview to determine safety issues on the roads or is it the Highway Supt.'s.

**Palmer MOVED that a 14' cut through the median perpendicular to homeowner's driveway at Thornwood with Highway Supt. Reiter signing off and funds to be available. Also pending reviews of the ownership by Attorney Leone and contact with the Homeowner's Assoc. Second by Edwards and carried 5-0.**

Kiwanis Proclamation:

Newlin presented to the President Ron Parent of the Lewiston Kiwanis Club a proclamation in celebration of their 50<sup>th</sup> year. (Proclamation copy on file).

President Parent thanked the Board for this honor and they are proud to have served the community for the past 50 years.

BAX:

WPCC:

Sewer Advisory Board will meet on August 18, 2008 at 6:00 p.m. at the plant.

JOHNSON:

Fire Bureau:

The Fire Bureau would like to meet with the Board at the Worksession of Sept. 8<sup>th</sup> at 5:30 p.m. and Chief Schultz would like to update the Board regarding an emergency response course and other items.

Edwards: In the past we previously got reports on inspections and I have not seen any in the last year.

Johnson said they do bring them in and they are in the minutes of the meetings. I will make sure you get copies of the minutes. The reports do cover inspections.

River Road/Anderson:

Boniello stated that he had received a call from Mr. Anderson's daughter and met with Mr. Reiter there. Also Mr. Johnson and the engineer also visited the site.

Johnson stated that Mr. Lockhart will be conducting some testing there this week along the sewer line on River Road. Before we do anything we will need to get that report to determine if any water is coming off of that line.

Lockhart: The money has been approved and I have been in contact with the contractor. Because it has been so wet, I am hopeful if it dries up a bit the water table would be lower and that would facilitate the process. I anticipate August or early September to have the work completed

Britton: The program consists of putting a clay on the Riverwalk sewer lines, 15' deep that runs out into River Road which would steer of any potential movement of ground water across the road. We are eliminating that possibility from the issues that they are having along the bank. The homeowner brought up that there is a potential for ground water to move, migrate thru the stone that is around the home. We don't know if that is what is causing the bank to slope off but we will eliminate from the equation. That is what was proposed and that is what was discussed.

Johnson said there is other erosion on River Road. I was going to contact Rep. L. Slaughter's office on this. Once we get those results back then we can identify some of the problems. We met with State Parks with regard to a letter written by Dave Britton trying to get the State Parks to clean out their ditch which is off of Pletcher Road near Riverwalk. Several residents have had their backyards under water. They want a letter from our Engineer requesting the alternatives with more details. It would be sent to their environmental people and Albany. All we want them to do now is clean their ditch which would help move the water quicker.

Britton stated that the developer is the one offering to cleanout the ditch but the State is just not cooperating.

Johnson said they (State) are going to cooperate with us but must run it through their environmental people. There is also an outfall where the swimming pool is and we would like to tap into that outfall and get the ground water out to the river. That would be a perfect setup and the developer is willing to do that.

Britton stated that you would have to have State permission to construct a pipe to tap into an unused line.

Newlin: Every piece of property that is east of River Road drains to 4 mile Creek not to the Niagara River. (Pretty much)

Johnson: This would be much easier and would help the treatment plant and the homes on River Road.

**Johnson MOVED that the Engineer compose a letter to the Office of Parks & Recreation regarding the drainage issues around the State Park. Seconded by Palmer.**

Britton said it would be one letter outlining the two items. Option 1 would be the cleaning of the ditch which would be preferred and the second option for the State to consider the alternate of tying in.

**Carried 5-0.**

PALMER:

SPCA Contract:

A few months ago we entertain different proposals with the Director. We have the latest proposal and I would suggest that we discuss this in Executive Session in hopes of coming to an agreement. Our Town Clerk may have some input into this for the session.

Bradt Subdivision:

We have a letter from Mr. & Mrs. Richard Bradt of 500 Pletcher Road requesting the return of \$150.00 subdivision fee that they paid since it was not necessary for the subdivision process for an adjoining lot that they own. The recreation fee has been returned.

**Palmer MOVED that the \$150.00 subdivision fee be returned to Mr. & Mrs. R. Bradt. Seconded by Bax and carried 5-0.**

Newlin stated that in Executive Session the following items will be discussed: Contract/SPA (Historical Society payment); contract matters; litigation matters; personnel contract and notice of claim.

RESIDENT:

William Alberts of 4984 Creek Road Ext. representing Kathy Mietlicki & Gary & Marie Winters of 752 Ridge Road. I am here this evening to let the Town Board and the citizens of Town of Lewiston aware of a situation that needs correction that happened at 752 Ridge Road. In the fall of 2007, workers representing the Town of Lewiston called on the owners with the express purpose of locating a storm water removal system that was privately installed by the former homeowner for the express purpose of handling the water run off for the property. The reasons for desiring this was because of the continuing surface water caused by the property development of the homes along Ridge & Creek Roads, east of the said property. Their request was to dig on the southeast side of the property which happens to be a very extensive area on the side of the backyard of the property. There were looking for a terminus of this privately installed system. Evidently, the term of the feasibility is connecting a drain line from the troubled property. They found a catch basin approximately 35' from the southeast corner of the home at 752 Ridge Road on the property owned by Ms. Mietlicki. Since the house east of the property was constantly complaining of high standing water they asked if they could temporarily attached a drain section to this catch basin thus relieving the difficulty for those homes and a constant headache for the Town. The question ?????? that system so late in the fall that he wished to dig and install an 8" drainage line behind approximately 4 houses and it turned out to be 7 or 8 and remove the potential for this high standing water by attaching it to the property owner's ??? self line to the culvert at Ridge Road. He stated he would be back in the spring to install more permanent arrangements and disconnect from a privately owned and financed personal system. Again, this was to be only a temporary solution. Spring has come and gone and now we are approached another fall and there has been no movement from the Town despite several personal contacts and notices delivered to the appropriate town agency and officials. The area remains ungraded to its former state, the temporary line has not been removed and a permanent remediation has not been provided or installed.

Therefore, we are here to inform all members of the Town Board of our displeasure and continued demand to remove this temporary attachment to our private surface water removal system. After several attempts to amicably resolve this issue in a somewhat private manner with those in authority, we are now here requesting for a public forum for our grievance. We are greatly concerned that in the event of higher than normal rain which we have all been experiencing, this newly installed 8" line will overwhelm our private system which is only designed for one household thus giving us no opportunity to evacuate our own water run off. No permanent audit or solution has been formularized

for these properties east of 752 Ridge Road. No one is monitoring the existing temporary line for unauthorized connection to those houses which is still experiencing high standing water and several attempts to connect have been observed. We will verify the timetable to remove this temporary connection to insure that being secretly reconnected. Finally, we come here seeking the Town of Lewiston and the Town Board to honor a commitment to remove this connection.

Newlin stated that the Town Engineer and the Building Inspector had gone out there.

Edwards said he had been on the property twice and I have spoken with the Drainage Dept. Supervisor and he had made the commitment to have it removed by the end of July. Since then we have had bad weather and the paving crews are working overtime currently to try and get caught up. He is committed to resolving the issue. It will be disconnected from your drainage system and it will be run in a southwesterly direction to the next culvert off of your property.

Mr. Alberts said they were only asking for a timetable.

Edwards: The timetable was by the end of July and we need regroup with Mr. Reiter. We thought it had been taken care of.

Newlin: Mr. Masters, you had talked with Mr. Reiter and he believed that Mr. Waters was content. That is obviously not the case. Mr. Reiter is now aware I think that is the case.

Edwards: He is well aware that he was going to have this project completed by the end of July but the weather would not let him get back without destroying yards. Also, he is behind on paving. If you could be patient with this, Mr. Winters we will address it as soon as weather permitting and the crews can get out there. We have acknowledged the problems and I thought that when I spoke with you I had acknowledged that there was a problem. I have spoken with the Drainage Superintendent.

Mr. Alberts: So there is not a reasonable timetable? So who do we contact or do we come back to the Town Board?

Newlin said that Mr. Reiter runs the Drainage Dept. with a considerable degree of autonomy so it is going to be mainly on his schedule. Or course, if you had some questions, suggestions or observations, you can contact anyone of us. Mr. Edwards is liaison to Drainage Dept.

Edwards asked that this item be placed on "Old Business" for the next meeting.

**Bax MOVED to go into Executive Session. Seconded by Johnson and carried 5-0.**

Time: 7:35 p.m.

Respectfully Submitted & Transcribed by:

Carol J. Brandon  
Town Clerk

**Executive Session**

**July 28, 2008**

**7:40 p.m.**

Present: Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Town Atty. Leone; Deputy Town Atty. Boniello; Eng. Britton; Finance Officer DiRamio; Adm./Op. Lockhart, Deputy Tn. Sup. Elgin & Town Clerk Brandon.

Items Discussed:

1. S.P.C.A. Contract
2. Possible litigation/Thornwood
3. Possible claim/Drainage

**Motion by Johnson, Seconded by Bax to exit Executive Session and reconvene. Carried 5-0.**

Time 8:50 p.m.

**Bax MOVED for approval of a 3 year contract with the S.P.C.A. at \$919.50 per month and authorize Supervisor to execute contract. Seconded by Edwards and carried 5-0.**

**Bax MOVED for approval of an \$85,000 payment to the Lewiston Historical Society subject to verification of contract. Seconded by Edwards and carried 5-0.**

**Bax MOVED for the approval of the Modern Committee members. (Names to be recorded). Seconded by Edwards and carried 5-0.**

**Motion by Bax, seconded by Edwards to adjourn. Carried 5-0.**

Time: 9:00 p.m.

Minutes taken by Deputy Atty. D. Boniello

Transcribed by Town Clerk Carol J. Brandon