

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson; Tn. Atty. Leone; Deputy Tn. Atty. Boniello; Eng. Britton; Adm./Op. Lockhart; Bldg. Insp. Masters; Finance Officer DiRamio; Police Chief Salada and Town Clerk Brandon. Also, 13 residents and 3 press reps.

Excused: Councilman Palmer.

The Supervisor opened the meeting at 5:50 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS:

Rob Nichols of 471 Aberdeen Rd. Back to the budget, this is the first time I have gone thru the budget process and early on before we had the budget session (the public hearing) I know the budget was released and I had a person come in and ask for the copy of the budget so that he could bring it back to me for some analysis. He was not allowed to bring the budget out of this building so we were not able to get the budget until after the public hearing. I am wondering if that is a town law etc. so that as soon as the proposed tentative budget is released if that could be posted to the Town's web site. The citizens could review the budget before the budget sessions.

If we had been able to do that it would have cleared up the new refuse tax. The first \$159,000 and it is a special district (the garbage tax) and is the first since 1999. I think if the budget would have been posted and there would have been more disclosure about this. As far as I know, I tipped off the press because in my conversations with them they did not know anything about it. After the working budget session and even before that we talked about the water district going up but no one talked about the refuse tax until we saw it in the articles. That was not disclosed and I don't think it was anyone's fault but the public did not have a chance to look at it and I think there was more concern about your raise. With regard to the refuse tax, \$159,000 which is the first since 1999 with the new tax coming out of the special district that is going to show up in the Cnty. tax bill not the town tax bill because it is a new tax in the Town, not a Town tax I thought I heard that you had paid this down in the past. I also thought that we had one account that exceeded \$800,000. Why couldn't we continue to pay this down or why couldn't this come out of the tipping fees.

Mr. Supervisor, I think you are very disingenuous because at the end of the budget meeting you looked at Mr. Bax and Mr. Palmer and said "I wish you guys would have come to me and talked to me as why you voted 3-2 and why you voted against this budget. I think everyone in the room knew why they voted against the budget was because of your pay raise. Mr. Palmer voted against it the work session (3-1) and Mr. Edwards and Mr. Johnson voted for your pay raise and so did you and that is probably the reason why Mr. Bax voted against the budget. That is why the budget went 3-2 was because of your pay raise.

Concerning the Zito legislation, I know you were against settling that and I think you were dead wrong as the Town needed to settle that. We needed to reduce our legal fees. We were already well beyond what his initial offering was for that and I am glad that the Board had the courage to go against you on that particular manner and settle that deal without you. He was looking for a payday...true but it had to be settled.

I am glad that I saw the public comments in the paper about you finally doing something to help the firemen with the NYPA at the Buffalo meeting. I know in the past you promised the firemen some satisfaction. Sen. Maziarz was here last April and you did not deliver on your promises to the firemen even though their bills were lowered 4 times before the election but then they were taken away and that incentive was lost. I am finally glad to see you are acting on promise that you made before the election.

Gary Smith of 1650 Ridge Road. I have put this package in your mailboxes and it is a written request as we have in the past something informal, a discussion about the

expansion of our tonnage not the expansion of our landfill in terms of the new traffic impact and reduced traffic for current levels and what additional benefits. One of the questions, and I think in all of this is quite familiar to the Board...what I am requesting from this whole Board is to set up a public hearing on your Dec. 8<sup>th</sup> meeting to let the public comment on this request. It is requesting a change in the landfill law and the host community agreement.

Susan Pucci of 750 Fairchild Place. I would like to thank the Board for helping the Lewiston Public Library by maximizing everything that was requested from the Town. I am here this evening to find out if you have been able to look into budgeting processes to see if there is anyway to fund a full time librarian based on the \$6000 increase that was passed in the budget last week.

Jill Smith of 673 Cayuga Drive. You (Mr. Supervisor) said that you were going to talk with the Director of the library and the Board to try to look into... because I am confused when we were given the number for what it covered. In my conversation with Mr. Shaw of what he asked and what that covered. He said if he had the \$50,000 more we would not be having this situation. We want to know why he asked for \$50,000 less to start with of what you would of needed to continue with the staffing that was already there. It is confusing. At a Friend's Meeting after we spoke, there was poor communication because many there had no idea of what was happening. The Director never spoke about the \$6000 and the fact that we were losing our librarian after I arrived. What steps need to be taken to make it that the community can vote on who our Board of Trustees is as I do not feel that the director of the board is acting in our best interests.

#### AGENDA:

Johnson asked to add budget comments and an executive session on the cleaning position.

Edwards added a drainage issue and discussion on the public hearing (Modern).

**Johnson MOVED for the Amended Agenda as presented. Seconded by Bax and carried 4-0.**

#### MINUTES:

**Edwards MOVED for approval of the Minutes of 10-20-08 Work Session; 10-27-08 RTBM; 11-03-08 PH 2009 Budget; 11-10-08 PH/Work Session and 11-17-08 Budget Work Session. Seconded by Johnson and carried 4-0.**

#### POST AUDITS:

**Bax MOVED to approve the payment to Home Depot \$401.62; Office Max (HSBC Business Solution) \$1,179.74; Sam's Club \$392.98; Wal-Mart \$19.96; Office of State Comptroller \$25,865.00; Employees Retirement System \$248,362.00 and Police & Fire Retirement System \$87,037.00. Seconded by Johnson and carried 4-0.**

#### OLD BUSINESS:

##### 1. Flood Map:

Masters: Mr. Sharpe has given us an overlay of the map. The green is blue and is old and the red is new. On this map the green is old and the red is new. Dave Britton, John Sharpe, Councilman Edwards and I are going to the meeting being held on 12-03-08. We are wondering if the Board would like us to do some investigation and CRA with the problem areas we see the Town has. Walmore Road has 5 houses that were not previously in the flood zone and are now. Riverwalk and the Treatment Plant area along with the school area are in plan.

Edwards asked how much of Riverwalk is in there.

Masters said the whole corner when you go in Riverwalk South and the new phase 2C with 10 homes affected. The elevations have changed there with the development and the road going in. We would like to have information to take with us and since they have redone the map the elevations have changed there with the development etc. especially in the problem areas. We would have hard data so we can say we just

don't think that they are in the flood zone but based on what we now know on the elevation.

Britton said this could build a case for a protest. There is a process and on the map what is shown in red is the preliminary mapping that was done by FEMA. After the Dec. 3<sup>rd</sup> meeting there will be 2 public notices that will follow (dates not available at this time). After the 2<sup>nd</sup> public notice, there is a 90 day window for which the Town or the president can protest the mapping that is provided. Mr. Masters and I have gone thru these maps and I have gone thru the flood studies. We looked at areas that we thought may be wrong or mapped incorrectly. It is better to address it now then once they are adopted. It is very expensive to file lomars to do once the maps are adopted. Identify the inaccuracies now and have FEMA address it and revise the map before the public hearing. We feel that in Riverwalk there is an opportunity to pull those lots out of the flood plain because they mapped it prior to the construction. Walmore is associated with Cayuga Creek and we should shoot grades all along the road there to see if they could be taken out of there. The third area is a looped section around the school and improvements have been made there.

Masters said that 44 new people are in a flood zone. We have 32-34 coming out. I was told that the flood insurance will cost \$1200 to \$1600 a year.

Britton stated that at the Dec. 3<sup>rd</sup> meeting we will ask specific questions on how they developed the flood plan. After that meeting 2 public notices will go into the paper and then a 90 day window to file a protest. Adoption could be April 10<sup>th</sup>.

Edwards said we need the data that they used to put the map together.

Britton: We have the flood study maps and the flood study.

Edwards noted that in Riverwalk the project is 3 feet higher than they are telling us on the map. Are we going to have to pay for another study?

Britton said what you do is that there is a process for a protest in which you document your case. We send a letter stating the reasons why we feel that the study in this specific area are inaccurate and our elevation data supports our position that these properties are not within the flood plan. We are not going to be able to challenge detailed flood analysis that have specific cross sections. We do not know when the public hearings will be held.

Johnson said we should identify those homes so that the Clerk can send letters stating that after the 12/3 meeting they be aware of this issue.

Masters asked if we want CRA to shoot the elevations so we have that hard data on these problematic areas.

Newlin said he thought so.

Britton: For the 3 areas I would have 3 field days with a cost of \$1500 per day plus office time to prepare the protest. After generating this data we may be successful in Riverwalk, the school likely and Walmore less likely. The cost would be around \$6500.

Newlin said it could come from the contingency fund.

**Johnson MOVED to permit CRA Engineering to research the flood plan study in the 3 areas as designated with a cost not to exceed \$7000. Seconded by Bax and carried 4-0.**

2. Niagara University-Environment Review:

Master: Niagara University came to the Planning Bd. with a 5 year master plan and now they are trying to come up with funding for the plan. They went to the School Association for funding and they have asked for the environmental studies done

before they will give funding for the proposed projects. It has been reviewed by the Environmental Comm. & CRA Engineers and seems to be in order. They will have to come back to the Planning Bd. with each individual project and approved by the Town Board. The projects are the infrastructure, parking lot, new dining hall and science bldg.

**Johnson MOVED to recommend a Neg Dec on the 4 proposed projects at Niagara University subject to approval of the Planning Board. Seconded by Bax and carried 4-0.**

NEW BUSINESS:

1. Request from the Niagara Frontier Bible Church to be released from the current lease agreement with the on-site playground.\* Referred to Dir. Dashineau.

Masters noted that they have put 2 proposed parking lots in and a retention pond has to be put in and is where the playground is.

2. A request from Wm. Sharpe of Niagarans for Cancer Cure to sell cider; fruit etc on private and public property within the Town.

Salada asked to discuss this in executive session.

NEWLIN:

Legal: Town Attorneys asked for an executive session to discuss litigation.

Engineering:

We received a letter from Mr. & Mrs. Ernest Haseley of 2010 Saunders Sett. Rd. regarding a drainage issue. Referred to Eng. Britton and Supt. Reiter.

Library:

Newlin: The Lewiston Library submitted a budget request of \$368,000 on Sept. 1<sup>st</sup>. In the proposed budget we funded it at \$363,000 and after the presentation it went to \$368,000 and passed by the Board. The Board's hope is that the \$6000 of additional funding will be directed towards children's programs. On the advice of our attorneys, there were other than budgetary reasons which involved a personnel issue to be addressed this way. I understand that Mrs. Yeager retired on Oct. 31<sup>st</sup>. Your points about how we pick members for the Library Bd. is that we try to pick people who are interested in the library. We pick 4 members from the Town and the Village picks 3. I know that there are concerns about how the decisions are made and we are looking at them. We encourage you to apply.

Edwards: Until last week I was not aware of a personnel change other than in the proposed budget from Mr. Shaw and he did reflect a full time position becoming part time. I did not know of the position or Mrs. Yeager and there is a love for her based on the letters and phone calls. I do not know what transpired and I know it was not budgetary in my opinion. We have given the library everything that they have asked for and I do not see any cuts in any labor lines. I would give my salary for Mrs. Yeager to come back but whatever is happening I am not aware of. But it is up to the trustees of the library and the administrator. We let them and need them to run their business. We totally support the library.

Johnson said that the \$6000 would not cover any portion of the salary of even a part time person. There is some unfinished business with the library and I know there was some dialogue about the Town taking over the library for the Town and the Village would relinquish their ownership etc. I am not sure of the status.

Leone: As to whether the Town would completely take over the library is not in discussion at this time. Since it is a Town/Village library appointments are authorized by the statue and you (the Town & the Village) make their appointments. A budget is set for the library and they let us know what they want to do with their budget. They request a certain sum and they decide how they are going to spend their sum. This Board decides whether or not they are going to give them that money. They did that and the Board funded it dollar for dollar. How the Board of Trustees decides to manage that money is not something that this Board goes into. They don't micromanage what the agency does. The Board of Trustees is set up by statue. There

was a proposal a few years ago to set up a separate tax district for the library and had that occurred then we would have had a different funding structure and it still would have been run by trustees who would have been elected.

#### Zito Litigation:

The Niagara Power Coalition as reported approved a settlement with Mr. Zito for \$175,000 by a majority. I still do not approve of the settlement for reasons although the other 4 members of this Board did approve settling. There are 2 things that have to be weighed in these settlements and I am limited by what I can say. What is weighed on one hand is immediate fiscal necessity and fiduciary responsibility for this Board and others like it across this county who participated in the NPC. The legal bills were mounting and were high. I weighed that against whether I personally think Mr. Zito had ever been promised compensation and I had never been witness to any meeting where he had been promised compensation. I missed only 1 meeting in all that time. The other members of the Board were not present. At some point a line has to be drawn about what is right and what is wrong and that is not always the cheapest side of the line. It was a more costly decision but I think in the long run it does protect the public interest. Attorneys outside of the area said that had a lawsuit with so little merit been brought before other municipalities in other parts of the state or the country would have been rejected out of hand and if you choose to sue us we will take it right to the law. These are hard fiscal times for all public budget so this is a burden that we face more so than other areas. For some reason it seems to be a game played here in WNY by suing for an outrageous amount (37 million) prior to the \$175,000 but the longer that we continue sue and settle for some lesser amount the more money it is going to cost us. There are issues that I cannot speak about regarding this.

I guess that is as good a transition as I can to any response from Mr. Nichols unfortunate comments. I have been going to board meetings for over ten years and I have never seen the level of political attacks that are now starting to become leveled at myself and other members of this Board. I don't know what that means in the future and I have not seen Mr. Nichols here at board meetings before this year. I certainly think you are making some kind of a career out of leveling attacks at me. I will let the public be the judge as to whether or not those are well founded or not. But, if that is what we want to turn these board meetings into, a political chairman getting up before political bodies and leveling attacks at democrats or republican chairmen and republicans from the democratic chairman we could be here for 4-5 hours every night. I don't know what that purpose is served by that and we will keep an eye on it. Right now, I am not to open about what the year 2009 is going to look like here. I hope something can be done to stop it before the train goes off the track. For five years this Board has operated in a very commendable way I think. Bi-partisan or post partisan where people are putting aside political differences and trying to move forward in the public good and I see dangerous steps in the other direction with regard to the state of affairs here at the Town Board meeting. Some of the charges that were made, I can't understand.

The refuse tax was signed into existence by a contract that was signed in 1999 before I was here. If I had been a Town Board member then I would have extended free service. The Board made its best decision it could and did not extend that free pickup. Again, \$35.00 per house per year, I would ask if anyone in Wheatfield, Grand Island etc. gets by with \$35.00. The Board should be commended back then for coming out with a good deal for the residents. As to why this pickup before, we had the money. Now we are looking at perhaps shrinking sales tax revenues next year and we have benefit packages for unionized employees that are increasing at a very rapid rate. Every year we have less discretionary money. Also, the refuse district which is not a new tax and is in there in place of before had a fund balance that I left and while I could of taken \$180,000 from the refuse tax balance to pay off debts etc in the police dept., highway dept. etc. I left it there so that when the first year there was going to be a \$35.00 per household tax, I used that money to pay down a resident's burden instead of them paying it out of pocket.

With regard to the budget and how it was passed, I was absolutely shocked when it did not get passed unanimously. I had no indication from anybody to any other affect. I can understand if some board members were not crazy about the increase for the Supervisor's salary...that is a 13M budget and there are parts of it I am not crazy

about. However, it has to be voted up or down on a yes or no basis on the entire 13M budget. When the specific increase to the Supervisor's personnel services line came up for a vote that did pass unanimously. So at the end of the meeting I didn't think the Supervisor's salary was the part that everybody objected to. Because if they did (2 people objected) and had they not approved of that salary increase they could have objected to that first part and not the budget in its entirety. We got a request at the last meeting from the residents to fund another \$6000 and that was part of that budget. Had that both failed, we wouldn't been able to get the other \$6000 and it would of reverted to the Supervisor's budget and we would not have been able to get the extra \$6000 to that worthy program at the children's service that we all support. The point of this is municipal budgets that get into the millions of dollars all have some things that we are not going to vote for in general but they do serve some public interest. I really was shocked that it didn't pass unanimously.

With respect to the Police Dept. there was a letter from Mr. Hutchins in the newspaper this weekend which said "the additional monies for the police force was rejected to provide for Newlin's \$10,000+ pay raise. That is so patently false. I cannot believe that it got into a newspaper. If a newspaper decides to print political attacks I hope that they have the courtesy and decency to see if it is actually correct. Certainly, Mr. Nichols and Mr. Hutchins or whomever made an accusation that "Fred Newlin killed a child this past weekend" it wouldn't be printed before they called the Police Dept. to ask if that really happened. It says "that my increase came at the expense of the police dept." There are 2 main budgets that this Board grapples with. The "A" and "B" fund. Public officials and expenses like the senior services; the parks, the buildings...that comes out of the "A" fund. Those revenues are completely separate from the revenues that go into the "B" fund and is a result of millions of years of State Comptrollers' opinions. We could reduce every public officials salary down to zero and forget about giving money to Artpark, seniors etc. and that wouldn't free up dollar one for a worthy cause like the library or the police dept. I don't know how many times I have to say that until some people understand it. Also, you cannot take money from the "A" fund where we do have an \$850,000 fund balance and use it to offset the refuse district. We are making some progress with the police and there were no cuts in the police budget. The police budget is up 10% from last year and the year before up 5%. On Sept. 1<sup>st</sup>, department heads submit budgets to the Supervisor. I have that here and I fully funded that in my budget. As time progressed there were some concerns by those in the Police Dept. and some on this Board that maybe we could look to other ways of dealing with having some more people in the dept. Some members of the Board spoke in favor of full time policemen but did not want to fund it at the last meeting for budgetary reasons. I have been working closely with Chief Salada and we are making some progress there. We are going to be having a meeting of the elected leaders of Lewiston, Porter and the 2 Villages to discuss shared services regarding the police dept. and that would help get more police protection. Overall, I would say we are pretty well protected. We are working to up the personnel and there is always a cost with it. Benefits went up \$40,000 from last year.

Bax asked what is a reasonable timeline with the other municipalities to get something done. (Hope is 90 days) I would like to help you endeavor to consolidate and save where we can especially to get some relief from the force that we have on the streets today. It is worth the effort.

Newlin said he hopes that he would get some indication from the Porter Town Board as to what their level of interest is. Mayor Soluri for budgetary reasons is very much against any more hiring in the Police Dept. because we partner with the Village as 77%-23% split. We will need the full cooperation of the Village.

**NYPA Public Hearing:**

At the meeting last week, I commended the NYPA for them meeting in WNY. I pointed out that we should try to get more money from the 5M a year that we are allocated from the sale of 22 megawatts into the grid and if those megawatts were sold in complete markets the money could go up from the 5M to 6-7M or double. They said they would work on that. I reiterated my long held contention that it is not fair to the NYPA on special district tax. If you think about where the NYPA has its larger generating plants it is in upstate NY. They are in rural communities like

Lewiston. These are small rural suburban communities that have volunteer fire companies and not equipped to deal with large scale, industrial commercial liabilities which is what the NYPA and an accident could become. The cost is shifted since the NYPA with a plant worth 1B+ does not pay anything towards fire protection. All of us have to pay the fire tax which buys equipment and services to protect the power plant. I told the Acting Chairman, Mr. Townsend and he said "it was a no brainier". I hope that they pursue it. I told the fire companies well before last year's election that we were not going to be able to divert any power their way. We said if we could not use all of the power we would help them. We sold all the power to the grid and residential rates. I said that if there are times when they can't sell the low cost power that is being generated in this area we should look at further reducing residential rates.

Bax asked if there was any progress on the MBA issue.

Newlin: Mr. Dax is going to come back to us in January to speak to us. It is going to a scale of cost.

DEC Public Hearing:

It was well attended and a number of points were made. I hope the public stays involved and the DEC is listening. The current siting plan as proposed by the DEC carries a large exposure to this area because it would allow CWM to maintain its position as the only hazardous waste facility in entire Northeast and NYS. I encourage the public to go out, write letters and speak at the public hearings and tell DEC how unhappy we are. Hopefully, the DEC takes its responsibility seriously and improves its' protection of the public health.

Verizon/Tower at WPCC:

Verizon has proposed a new tower and at first they wanted to put it on Calkins Road. I have been able to negotiate with them to place it near the plant and the Town would receive \$1250 per month from them.

Leone stated that the previous offer was for \$1000 per month and their attorney has stated that the \$1250 is the optima rate they would pay. There are some details within the contract that need to be worked out.

**Johnson MOVED that the new proposal from Verizon to install a tower at the W.P.C.C. be forwarded to the Planning Board and Tower Cmte. for review. Seconded by Bax. Carried 4-0.**

Newlin stated that the funds derived from this after determination could go to the W.P.C.C. account.

Town Emergency Response Meeting:

Newlin has met with Jonathan Schultz of Upper Mt. Fire Co. This would be is an attempt for the town to come with specific and general responses to potential disasters within the town. First meeting will be in December.

**Newlin MOVED that Councilman Edwards attend the meetings along with the Supervisor. Seconded by Johnson and carried 4-0.**

Town Base Health Plan:

Newlin stated that working with Mr. Jerry Mann we have been save additional monies with the Town being classified as smaller group vs. a larger group that does made a difference in the rate.

**Johnson MOVED to select as the Town's base plan Independent Health Flex Fit Select Plan for non union employees at a cost of \$362.96 single & \$924.55 family. Seconded by Bax and carried 4-0.**

Modern Citizens Advisory Cmte.:

Newlin: Mr. Fox of the committee sent an e-mail asking what the status of the committee was. The committee was created by this Board as a result of the Town's ability to create an Ad Hoc Cmte. regarding issues facing the citizens. We have a

contract with Modern that speaks of a Modern Traffic Cmte. Traffic is the largest portion that the committee will discuss. I look to the committee to review anything that they think is in terms of a citizens' impact. They could look at this contract and maybe point out things that could be better or any changes that could be made. Then come back to the Board and with the new proposal received tonight they could comment on it also. The Board would then negotiate the contract.

Bax: I think the confusion on the Board has been they believe that they have been tasked to do the negotiations which are our responsibility and this will take it off of them. In attending the meeting, I witnessed the dialogue that would be to take a look at the historic legislation that is in place with the agreement (contract) and the proposal in hand incorporating their own personal experience. Many of those on the committee also spoke at the public hearing. They have made requests for documentation from Mr. Smith and they should respond in written form to us but with their final product that I envision as a written document that we could refer to and come to a consensus ourselves and be more educated on the subject. I think their purpose at this point is to serve as a surrogate to us and try helping getting up to speed.

Johnson: In 1999 when we had public hearings and no one spoke on behalf of the 1995 contract. Last year, the people were upset about the truck traffic and the routes & times. Negotiating the contract is not my envision of what this committee was going to do. Decisions are made by this Town Board and the attorneys. We were going to talk about reducing the truck traffic. Modern (Mr. Smith) came to this Board and said that they had a proposal and has met with the committee. Perhaps we as a Board need to discuss this. I believe that we directed Modern to come up with a plan to reduce truck traffic.

Edwards: The committee has met twice and we have not received any reports or comments on the truck traffic. We met with Mr. Smith 2 months ago in executive session and he gave us the basic overview of his views on reducing the traffic. Tonight, he is asking to be put on the schedule for a public hearing. Are we ready? We have this packet and I am unable to digest this. Where are we with this traffic committee and what movement have we had with Modern?

Bax: There was confusion as to what the role of the committee was...there was conversation that was not being productive and because of that things got stuck. Mr. Fox put together a series of questions which also asked if I was a voting member of that committee. What was their charge? What were they suppose to come up with at the end. I told them that did not assume that I was going to be a voting member nor a member of the group. I would be a liaison only. My appraisal of what they should be providing us as a Town Board is that they should educate us. You had specific concerns about the expansion as proposed a year ago. You are now on this committee to do some investigation by looking at the paperwork and come to us with what info you find. The first part of this packet that you have in front of you is a traffic study. A civil engineer on the committee has informed us of what he thought. That should be one section of that document that we have provided. A summary of what has been provided and a summary of the history. If they feel that there is something that could be done better, suggest new ideas and issues that should be negotiated and then for us to decide. They are an advisory committee. Some have asked to look at the finances of Modern, but I think that is beyond the scope of their charge. Those are the kind of requests that were creating more tension than solutions. 7-10 questions in the e-mail should be taken up in executive session and come up with a final list and vote on them in public.

Johnson: I came on in 1996 and I remember that the CAC was created to the contract. I created the Modern Host Community Cmte.

Bax said that when he came up with the Modern CAC it was just my exposure with the CAC and I didn't mean to confuse things. People have had issues with the name.



Johnson: That was to talk to us about how to deal with the funding. Let them propose to the public and have Modern come and talk about it. Also, have the committee meet with us at a work session and discuss their concerns. Let the public hear it also.

Newlin: I don't think we would want the public to examine this contract but however on the committee we have a group of dedicated interested citizens on all sides. Why not allow them to examine the proposal and maybe draft whatever they agree on by majority on their observations. Give it back to the Board and this could supplement our process. I don't see any harm in allowing them to review the whole document.

Bax stated that they put more on observation than on the consensus. It is our job to make the tough decisions. I do not think they will come to an unanimous consensus and they should present everything that they find. What we have they have had for several weeks. With the direction that we have provided today, they should be able to come with the document that we are requesting.

Johnson asked if we have a copy for the public to look at. (The Clerk has a copy)

Newlin said it is premature to have a public hearing set and I would like some input from the Modern CAC. I don't think we can make that determination until then. When we set the public hearing, Mr. Leone, is there any length of time before we set the public hearing.

Leone: We need to look at the local law to see if it needs to be amended. If so we draft the local law and give it to you. It needs to be on your desk for five days.

Smith stated that the packet includes the redraft of the local law.

Newlin: Mr. Leone would you review the amendment to the local law. Then on 12/8 we can decide if we want to set a public hearing.

Bax said that the CAC has not set a date for a meeting pending the clarification of the ten items. Also, I don't think that 2 weeks is a burden and they could come back with a proposal at that time. Also, we could meet before so they could present what they found.

Newlin noted that the questions are very diverse. Mr. Fox has asked what exactly is the commission and what is our authority do we have. They are an advisory cmte. and have no authority. Ask them to look at it and report back to us. They have asked for a copy of the motion that created this board and ask that the clerk send it to them. Additional questions were discussed.

Bax noted that if there were continuing issues involving public safety etc. I don't have any objection to this cmte. existing outside of this proposal but Modern has a limited responsibility according to it's' contract. I think that their minutes will be summed up in their proposal to the Board. They can request minutes be taken from the Clerk's office.

Set RTBM/Final Audit Meeting:

**Newlin MOVED that the RTBM/Final Audit meeting be held on Monday, December 22 at 5:30 p.m. Seconded by Bax and carried 4-0.**

Advertise Boards/Commissions Vacancies:

**Johnson MOVED to advertise for vacancies to Boards/Commissions in the designated newspaper. Seconded by Bax and carried 4-0.**

Modern Public Hearing:

Leone: You could set the date if you choose because you now have the document before you.

Newlin: I believe that setting a public hearing near Christmas is not the best way to get public input.

Leone stated that if you choose to set the public hearing for 12/22 you would have enough time to review it and get it published.

**Johnson MOVED that a public hearing be held on December 22, 2008 at 7:00 p.m. on the Modern application. Seconded by Bax.**

Leone: I have not read the document yet and if the language is adequate to amend your local law then you would have had it for the requisite period of time by the time that date comes. If there is a problem you can state at the public hearing you are going to reschedule.

Newlin: Hopefully, at the 12/8 meeting we will have received info from the CAC Cmte.

Boniello asked if the CAC Cmte could have its' comments back to the Board for the 12/8 meeting. It would be better for both the Board and Modern so that they could address them at the 12/22 meeting. If there are substantial changes to the local law they could be addressed at that meeting.

Newlin said he would prefer the hearing after the holidays.

Edwards said he would like the CAC Cmte. to not have to rush through this process and bring back to us the facts as soon as possible but with a date and place that does not put pressure on them.

Newlin said he felt the public hearing is a good idea but we want the public to have full involvement and I think you are pushing it to come 3 days before Christmas.

Bax: Could we have a public hearing on the 12/22 on the document that is before us as amended by the attorney....would that cover?

Leone: Yes, provided that we get the amendment in on time and it is on your desk in an adequate period of time. There is a document in front of you tonight (I have not read it) and whether it is adequate or not, I don't know. So, presuming that the present state of the local law is adequate you would have had it for the proper time to satisfy the requirements. If on the 8<sup>th</sup> and there are changes we would have to amend the document, get it to you in proper form and get it published if possible by the 22<sup>nd</sup>. At the public hearing and you come up with a change I suspect it would be substantial to the public. You can anticipate that on 12/22 there will be a public hearing and set it on the 8<sup>th</sup>.

Newlin said he could not support this during the holidays.

A discussion on the timing of the review process by the attorney and the time frame for publication took place.

Gary Smith said that the traffic study is the appendix to the document. The document is 3 pages of the resolution to change the law. It is literally 3 pages of the resolution that changes the section of the Town Law and those host agreements. There isn't any thing here that hasn't already been reviewed. It is the same language from the public hearing that was granted last year and it is the same information that was presented to the Board in executive session. The CAC has had this document for 3 weeks. We approved the appendix so that the document would be complete for the SEQRA review. The traffic study was given to the committee the day it was formed. That was months ago.

Bax received a notice of the CAC meeting to be held on 12/15 today to discuss this issue. We would like a response for Atty. Leone with any modifications by 12/1 and the committee could be polled and possibly set the public hearing at the 12/8 meeting.

**Johnson withdrew his Motion to have a public hearing on December 22. Second withdrawn by Bax.**

BAX:

WPCC Resolution:

In 1978 there was a resolution authorizing improvements that were bonded by the Town. Mr. Lockhart has provided us with the new resolution whereby the charges have been dropped from \$2.90 per thousand average assessments to 8 cents per thousand. On page two the amount should be **0.0801 from 0.801**.

**Bax MOVED to accept the Resolution as presented with the correction as noted re: Authorizing Unit Charges in LMSD. Seconded by Johnson.**

**RESOLUTION**

**Re: Authorizing Unit Charges In LMSD**

At a meeting of the Town Board of the Town of Lewiston, Niagara County, New York held on the 24<sup>th</sup> day of November, 2008.

WHEREAS, the Town of Lewiston, in behalf of the Lewiston Master Sewer Improvement Area, imposes the following assessment upon the property owners of said area to provide for the payment for the sewer system over a thirteen (13) year period; and

WHEREAS, the Town of Lewiston hereby appoints the Assessor to prepare an assessment roll of all the assessable property within the Lewiston Master Sewer Improvement Area, and such assessment roll shall contain a description of each lot or parcel of land so that the same can be ascertained and identified, the names of the reputed owners thereof, a description and length of the frontage (which for the purposes of this resolution shall be the distance of the lot or parcel of land along a road or street, public right-of-way) with vehicular access, or in the case there is no street or right-of-way with vehicular access then alley or public right-of-way) of property having access to the sewer system, the amount to benefit of this improvement to each lot or parcel of land and the amount assessed against each lot or parcel, and

WHEREAS, all of the property owners of the (Lewiston Master Sewer District) are benefiting from the construction of the wastewater treatment plant, the trunk lines or interceptors and the pumping station and so therefore the capital costs of such wastewater treatment plant, trunk line and pumping stations shall be recovered by the use of a rate of assessment based upon the assessed valuation of real property within this sewer district to be paid annually for a period of thirteen (13) years on the same date as local real property taxes are due, such amount being eighty decimal point one mill (\$0.0801) per each thousand dollars of assessed valuation for 2009 and determined annually by the town board hereafter,

WHEREAS, all of the property owners of the Lewiston Master Sewer District are benefiting from the construction of the subtrunks and street-laterals to varying extents, thus the capital costs of the subtrunks and street-laterals shall be recovered by a frontage charge on all taxable real property frontage which said frontage charge shall also take into consideration the extent of benefit by the use of the property as follows, the frontage charges to be paid annually for a period of thirteen (13) years on the same date as local real property taxes are due, shall be computed in accordance with the following:

**1. Primarily Benefited Frontage**

Primarily benefited frontage shall be the frontage of a parcel up to one hundred forty-nine (149) feet which shall be charged at a rate of one hundred five dollars (105.00) per unit pursuant of the unit classification schedule below. The use of the entire parcel or lot shall be considered and used to determine the particular unit classification for such parcel or lot:

**UNIT CLASSIFICATION SCHEDULE**

A. Residential type users and owners of a vacant lot or parcel shall be assigned units depending on the type of residential use, provided however that no residential use, provided however that no residential type user shall be charged less than one unit:

	No. of Units
(1) Single family home	1
(2) Vacant lot or parcel	1
(3) Per residential unit of a duplex	1
(4) Per family or residential unit of a multiple family home	
1 bedroom	1/2
2 bedroom	3/4
3 bedroom	1
(5) Per motel room	1/8
(6) Apartments	
Efficiency	1/2
1 bedroom	1/2
2 bedroom	3/4
3 bedroom	1

(7) Per boarding house bedroom	1/5
(8) Trailers and Motor Homes	
Pad Hook-up	2/5
Non-pad Hook-up	1/5
(9) Mobile Homes (per site)	1
(10) Convalescent Homes or special care facility	
Per 4 residents	1

Institutional type users shall be assigned units as provided for below:

	NO. OF UNIT
(1) Schools – per 50 students	1
(2) College	
Dormitories – per 8 students	1
Per 50 non-resident students	1
(3) Church, or place of worship	
Small congregation – less than 100 members	1
Medium congregation – 100 to 200 members	2
Large congregation – over 200 members	3
(4) Hospitals – per 2 beds	1
(5) Country Club – per 6 members	1

Any other user which does not fit any of the categories listed above and industrial users shall be assigned units based on the diameter of the water line serving commercial, industrial and other users as follows, provided however, if there is no water line, every parcel shall be charged a minimum of one unit per parcel:

	DIAMETER OF WATER LINE	NO. OF UNITS ASSIGNED
(1)	Three-fourths inch (3/4")	1
(2)	One inch (1")	2
(3)	One and one-fourth (1 1/4")	3
(4)	One and one-half (1 1/2")	4
(5)	Two to three inches (2-3)	6
(6)	More than three inches (3+)	8

#### Combined Parcels

Those parcels of land combined after June 1, 1978, shall be treated for the purposes of this charge as if they were not combined; and

WHEREAS, new dwelling or any structure which commences to produce sewage in this sewer district area after November 1, 1978, shall be connected to the system if required by the Sewers Local Law and shall be charged a "tap in" fee of five hundred dollars (\$500.00) for connecting to the system, with this charge payable upon application for a building permit or on the date of the first scheduled sewer rent for said users, whichever is earlier: and

WHEREAS, any amounts unpaid after thirty (30) days after said due date shall incur a penalty charge of ten percent (10%) and any amount shall constitute a lien upon the real property: and

WHEREAS, any cost or part thereof not actually paid out of such assessment shall be collected by law, and in the instance it is not legally collectible it shall be reassessed upon the property of the improvement area.

Edwards: People that have participated in that sewer district ....didn't any of this pay for 30 years for the service? Is this in reference to the plant when they built it?

Lockhart: It is a combination of WWTP and the sanitary sewer line construction. Since that time we have sewer extensions that were made in the Master Sewer and some re-bonding of previous bonds that extended the debt service that allowed another 13 years. This is to reauthorize the collection of monies to cover the existing debt service. The original bonding as stated was \$2.90 per thousand of assessed valuation. The original resolution recovering the bond debt was \$2.90 and to settling the bonding theme shifted around some of the debt service fees to retire the 8¢ a thousand assessed value rate reflects what is in the Supervisor's budget for the past several years for the debt service in the Master Sewer. We are not increasing anything. All you are doing is authorizing to recover the same debt that we have had for the past 5 years.

Johnson asked why we would have not done this in budget.

Lockhart said the other one done by board resolution and all you have to do is reauthorize the collection to cover that debt service.

Bax stated that the original resolution expired after 30 years and that is this year. It is like having a 30 year mortgage debt that you refinance for another 15-20 years. You

have an extra 5 years after the original expiration. It has been extended in the past. The resolution has expired and the original date is 1978.

Newlin asked if Mr. Lockhart if we can wait till the attorneys look at this and then vote on it.

Edwards: If it were before me and I have participated in this \$2.90 per 1000 and at year 30 I am thinking we are done. We paid for the WWTP including the infrastructure and now I am being charge 8¢ per 1000 forever....

Lockhart said for 13 years. The \$2.90 was the original authorization and thru the years that has been reduced to just raise enough money to pay whatever the debt service is. We have not been collecting \$2.90 for 30 years.

Newlin suggested we move to table so that Atty. Boniello can review it.

Johnson asked why not make it subject to the Attorneys approval.

Leone said he had read it in the past. It does state what Mr. Lockhart has said. My original concern on this subject matter is the fact that the resolution from 1978 now comes in with 13 more years on it. My concern was are we putting an additional charge on people who are in the LMSIA for another 13 years when everybody would have determined the first 30 years had been taken care of. I understand this refinancing is essentially that the bond issue came up years ago so all you are doing is ministerial. You are enacting a resolution that goes in line and in time with a prior bond issue that a prior board has already approved and this board has nothing to do with. I am okay with it.

**On the Motion, approved 4-0.**

EDWARDS:

Highway & Drainage:

The request from Mr. & Mrs. E. Haseley regarding a drainage issue was sent to CRA Engineers in August. We will send this back to the Highway Dept. If it is within the scope of our Highway Supt. with responsibility of highway and drainage and I would suggest that Mr. Reiter do it.

Police:

I met with Chief Salada today with regard to the article that was paper on Saturday and more upsetting than the article is that I care about the officer that is by themselves at night. I think it has been the best kept secret in the Town. It is a policing secret that is used throughout the industry to try to save on gas and save on money in the slow hours of the evening by using one car, one officer patrolling. I am not a police officer and I know absolutely nothing about the policing industry but it upsets me very much when now criminals know we have a cop out there alone. I would appreciate it if you would put another officer on immediately on a part time basis until the end of the year and we will figure this out.

Newlin said that he met with Chief Salada before the meeting and assured him that if he has any budgetary concern that we will take care of it until the end of the year.

JOHNSON:

Sanborn Fire Co. Roster:

**Johnson MOVED to add to the roster of the Sanborn Fire Co., Clifford Jacobs; Jason Harbinson; & Dennis Eggert. Seconded by Bax and carried 4-0.**

**Johnson MOVED to add to the roster of the Sanborn Fire Co., Erick Westphal & Patrick Fleckenstine. Seconded by Bax and carried 4-0.**

Cleaning Contract:

Will be discussed in executive session.

Budget Comments:

As a councilman I feel that my job is to react and do the best job that I could do for the constituents of Lewiston. I feel that I have done that. There are some criticisms that I am disappointed about. On the Police, I have been meeting with Chief Salada working on the budget and there are certain things that we will be working out. The Mayor has said it would be harsh on their budget with the difference of approximately \$6000. We are negotiating on a new location for our Police Dept. at the Administration Bldg. at Lewiston-Porter and will have a meeting with the neighboring communities to work together on this issue. I do care about the coverage that is out there and this Board is also concerned. The Mayor has asked that we hold off on any decisions on this matter at this time.

Library:

Previously, another board had cut the budget, but we were able to bring it back to its request for funding.

Fire Districts:

We recently voted to cover some retirees that are over 65 and this Board is favorable with both the firemen and the police.

Budget:

It has never been for me to make decisions based on politics and with last months' budget I believed that my motion with those adjustments that we would approve the budget with the approval of a 5-0 vote. I have enjoyed working with every Board member over the last 13 years and there are some times when you are not going to agree or disagree, but one thing is that we have been working very closing throughout the year. Whether you get 5-0 votes, everybody has their own impressions. As far as the Supervisor's salary, I did a lot of research and did call the other Board members and said no it is not a good time as there is never a good time based on the economy. In order to get good candidates to run for office and do the job of the Supervisor, I have seen and nobody, nobody had to put the time in that has been derived in the last 2-3 years. Even when former Sup. Maslen took on the Power Authority, I don't think it is unfair to say that we set back and compared with other supervisors with half of the budgets and half the population are making more money which includes some part time town employees. I thought even though the timing was wrong it is time to take care of the Supervisor who is going to have to be here more often and do the job right. Going forward next year, I hope we all work together for the same common goals and not this bickering. The articles in the paper upset me and there is not one move on this budget that I didn't call other Board members and relay my thoughts and ask their opinions. I hope we can work closer in the future.

**Bax MOVED to do into Executive Session to discuss personnel, contractual and litigation matters. Seconded by Edwards. Carried 4-0.**

Time: 8:00 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon  
Town Clerk

Executive Session:

Present: Sup. Newlin; Council Members Bax, Edwards & Johnson; Tn. Atty. Leone; Deputy Tn. Atty. Boniello; Eng. Britton; Bldg. Insp. Masters & Town Clerk Brandon.

Issues Discussed:

1. Personnel Issues re: part time position.
2. Current Litigation-Pending.
3. Contractual Issues

**Edwards MOVED to exit Executive Session and reconvene. Seconded by Johnson & carried 4-0.**

- 1. Motion made to have David Sherriff (PT DCO) be hired as part time laborer for 15 hours at a rate of \$14.41 to clean at the Senior Center & the Highway Dept. Funds to come from their personnel line. 6 months provisional appointment.**
- 2. Resolution approved to authorize the Supervisor to take the appropriate action on the proposed extension of the LOOW issue.**
- 3. Authorized Supervisor to use Water Contingency B Fund as necessary.**

**All motions were approved 4-0.**

Motion to adjourn at 9:20 p.m\*

Minutes taken by Dpty. Atty. Boniello.