

Town Board Meeting

July 27, 2009

6:00 p.m.

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Koryl; Building Inspector Masters; Town Engineer David Britton and Clerk Donna Garfinkel

Edwards MOVED to enter into Executive Session to discuss, several litigation issues, contractual issue, grievance issue, personnel issues in the Parks and Building Inspectors Dept. and a claim issue, Seconded by Johnson and Carried 5 – 0.

Modern contract negotiations, Calkins Road Cell Tower issue, Fire Underwriters, Town Hall roof repair, Niagara University claim and Riverwalk issues discussed.

Newlin MOVED to exit Executive Session, Seconded by Palmer and Carried 5 – 0.
(7:00 p.m.)

Regular Town Board meeting

7:10 p.m.

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Koryl; Finance Officer DiRamio; Building Inspector Masters; Town Engineer Britton, Police Chief Salada; WWTP Chief Op. Lockhart; 2 Press; 15 residents and Clerk Donna Garfinkel

Supervisor called meeting to order, followed by the Pledge of Allegiance. A moment of silent reflection was observed for all the men and women serving in the Armed Services.

Two-Minute Statements by Residents

D'Aloise, David – 697 Sara Court In 2003 the Board approached residents in the area regarding the purchase of green-space located behind the homes. It is Town owned and it was understood the Town would maintain it. In the past 11-years no Town worker has been seen back there. It is not being maintained. At this time D'Aloise is requesting the green-space be deeded to residents on Sara Court and Raymond Drive. If deeded, it would relief the Town of any exposure liability. D'Aloise has spoken to the neighbors and everyone is for it.

Newlin says on the face of it, he would be supportive. This will be forwarded to the Building Department and Attorneys. Newlin will notify D'Aloise by the end of the week as to what the next step is.

Hoffman, Linda – 4321 Riverwalk Drive South Residents in the Riverwalk subdivision still opposes the placement of a cell tower on Pletcher Road. Riverwalk is a mature community and the residents really don't utilize the services of the Town and continue to oppose this.

Witryol, Amy – 4726 Lower River Road The following letter was read.

Good evening. My name is Justice Sandra Day O'Connor. I live at 4726 Lower River Road in Lewiston, New York. My permit to operate a motor vehicle is in the name of Amy Witryol. My permit to own a residence is in the name of Amy Witryol. My friends and acquaintances call me Amy Witryol, (usually) . . . but when you see me in public, apparently I can call myself whatever I want and not be accused of misleading anyone.

After all, both Justice O'Connor and I are retired. She deliberated over legal rules for an entire country while I deliberated over financial rules for a region. Gentlemen, Justice O'Connor and I have about as much in common as a hazardous toxic waste landfill and regular garbage landfill do.

I've handed the Town Clerk a copy of CWM's regulatory identification form, which was provided to me by the DEC. The DEC informed me today that it has not received a permit modification request which would be required to change the facility name for the permit – it is still CWM Chemical Services.

CWM Chemical Services has not changed its name to Waste Management, only its advertising. CWM just issued a newsletter to 10,000 households in this community. How many times did we read the word “*chemical*” in a four-page newsletter by a chemical waste dump about its facility? Zero. Not once.

Just like CWM’s publishing of a hazardous waste quiz about hair dye which it does *not* landfill, instead of the chemicals and PCBs which they *do* landfill. What you see from CWM is not what you get. Perhaps that’s why they boycott the CAC, which the Sentinel inaccurately referred to as a “Lewiston group.” The CAC, Community Advisory Committee, is convened under State statute with appointees representing the Town of Lewiston, Town of Porter and Niagara County and is still today recognized by the NYS DEC which shares our disappointment, regarding the boycott. CWM prefers discussing pollinators and money, rather than chemical spills and a NYS Dept. of Health order which remains in effect on its property.

Finally, I’d like to address recent press about the RAB and the LOOW site. As you know, the NFSS is a radioactive storage site, owned by the Federal government, located next to CWM; both are within the LOOW site boundary.

Here is an Army Corps map of the uranium plume in groundwater identified outside of the NFSS containment cell. Three local, state, and federal agencies agree that there has not been enough sampling for the right constituents in the right places to conclude that the cell is not leaking. The Army Corps has made significant changes to its investigation and surveillance at the NFSS based on its recent reviews, and also at the urging of the U.S. EPA, the NYS DEC and the Niagara County Health Department as well as the public.

Also, Sentinel “news” coverage has twice criticized elected officials for not attending one particular Army Corp meeting, while the Army Corps has boycotted RAB meetings for almost two-years. Every municipality, including our school district, has appointed representatives to the RAB to help them evaluate this large and complex site. These representatives attend meetings with the Corps, despite the one-sided presentations by the Corps. The elected officials and the public have faith in the chemists, engineers, agency staffers, informed residents and academics who serve in these appointed roles. Apparently some of our local press is more interested in counting bodies than reporting on the information these professional volunteers provided. I hope that in the future we’ll have more quality in reporting and again thank you very much to the Board for their active interest. Not only in CWM issues but the LOOW site as well. Thank you for your time.

Presutti, Jerri – 4161 Calkins Road Is concerned with the comment made that the Tower for Calkins Road will not be acted on tonight. She was under the impression that the Board was going to get the ball rolling, and that it wasn’t going to be put off any longer. There is a representative here tonight from Verizon and they are waiting for an answer.

Newlin did not know Verizon was in attendance. The Town Attorneys have concerns and Newlin suggest the Attorneys meet now and then readdress this later in the meeting.

Agenda Approval

Supervisor asked Board members for additions to the agenda.

Bax MOVED to approve the agenda as presented, Seconded by Johnson and Carried 5 – 0.

Approval of Minutes

Edwards MOVED to approve the Regular Town Board meeting minutes of June 22, 2009, Seconded by Johnson and Carried 5 – 0.

Approval of July Abstract

Edwards MOVED to approve the Regular Abstract of claims numbers 1782 to 2238, and recommend payment in the amount of \$738,079.70, Seconded by Palmer and Carried 5 – 0.

Edwards MOVED to approve the payment of the Post Audits in the amount of \$193,393.12, Seconded by Palmer and Carried 5 – 0.

Approval of Post Audit

Edwards MOVED to approve payment to Home Depot - \$587.86; Radio Shack - \$145.96 and Sam's Club - \$952.47, Seconded by Palmer and Carried 5 – 0.

Old Business

1.) Model City Road resident complaint in regards to Washuta Park. Callie Smith of 4660 Model City Road complained to the Board about many “fly – balls” coming into her property. She has three young children and is concerned about their safety.

Dashineau distributed a price quote for netting. The price includes netting, poles and misc items for a total of \$4,666.80.

2.) Third Party Electric Inspector. The Town has received notification from the New York Board of Fire Underwriters that as of October 16, 2009 they will no longer provide electrical inspections. They have discontinued receiving applications for inspections effective July 14, 2009.

Newlin said the Town is in an unusual position. There are two companies named in the Town Code that was created in 1976. The Town would need to amend the Town Code with a local law which would require a Public Hearing.

Leone said the Town needs to decide if they will open it up or hire someone on a part-time basis. In any event the Local Law needs to be amended.

Palmer suggests the name of a specific company not be in the Town Code.

Newlin requested Mr. Masters inquire from surrounding Towns how this issue is handled in their community and get it back to Leone.

This to be discussed at the August 10th meeting. The proposed Local Law needs to be given to the Board at least 10-days prior to setting a Public Hearing.

3.) Library Parking Lot Repair. Newlin has been working with Edwards and Lannon on the requested repairs. There are unsafe step-ups which will be remedied by curb-cuts. Lannon estimated the cost should not exceed \$20,000.

Bax MOVED to allow Supervisor Newlin to work with the Engineers and the Attorney to go out to bid for the scope of work, Seconded by Johnson

Edwards recalls two-years ago the Town spent roughly \$30,000 of Town money to fix the driveway. Part of that was working in conjunction with the Village. They were to fix the sidewalks. Here we go again, another \$20,000 to the Library. It is a safety issue and does need to be fixed, that is not the point. Four-years ago the Town approved a rug for the Sanborn Library but the library can't afford to have it installed because the book shelves need to be removed. The children have storybook hour everyday at 2 o'clock and sit on a soiled, dirty rug. These dollars could be used to move those shelves and give the kids a new rug.

Edwards would appreciate someone having a discussion with the Village Trustees; they need to come up to the plate and help.

Newlin said the Village continues to plead poverty, more or less. The Town is very generous with the Village.

Edwards asked how can they? Every year, the Town contributes almost half a million dollars or better to the Village.

Funds to come from the Village portion of the NYPA Funds.

Motion Carried 5 – 0.

4.) Drainage Clean-up status – 1102 Pletcher Road. Board approval given at the last Board meeting.

5.) Drainage issue status – 533 Fairway Drive. Britton said there does not seem to be any rear-yard drainage and without it, there is nowhere to put the water. Several adjacent homes have gardens, sheds and fences that would make it impossible to run a drainage pipe along the back of the properties. A drainage pipe could be run from the back to the front but then you will have to deal with the grade going in the opposite direction. It was suggested a gravel pit be constructed. Newlin asked Britton to continue to work with the homeowner.

6.) Town Hall parking lot seal coating/stripping. Inspector Masters solicited quotes and received two (2). Bedford Blacktop - \$5,600; Epic Services - \$4,950.

Epic's quote includes cleaning all surface areas to assure sealer will adhere. Two-coat application will be applied as recommended for all pavement being sealed for the first time. First application will be applied by hand using a squeegee or bush, second coat will be sprayed.

Striping will be done, per the plans given, using Sherwin-Williams yellow traffic paint. The work will be done on Saturday and Sunday and the lot will be ready on Monday.

Johnson MOVED to accept the bid from Epic Services in the amount of \$4,950, Seconded by Bax and Carried 5 – 0.

Clerk's Correspondence

Item No. 1: Warren, Rosemary – comments on Recreation activities / not advertised enough. Edwards recommended Dashineau address.

Item No. 2: D'Aloise, David & Christine – obtain a portion of the green-space. Issue discussed in the beginning of the meeting.

Item No. 3: Scrivani, Al – requests rezoning property – refer to Planning Board.

Newlin MOVED to forward Scrivani rezoning request to the Planning Board, Seconded by Johnson and Carried 5 – 0.

Item No. 4: Sheusi, Tracy – The Circle – Drainage issue. Issue forwarded to Town Engineer.

Item No. 5: Town Clerk – necessary upgrades to voice-mail software for Town Hall.

Johnson MOVED to pay for upgrades to the voice-mail software from H-95 Equipment Reserves in the amount of \$7,955, Seconded by Bax and Carried 5 – 0.

Item No. 6: Kropelin, James – Mountain View Drive – waterline turn-off valve depression in property and storm sewer compliant.

The Town Engineer is handling concerns from residents in the Mountain View Drive area as the Town completes the project. Issue forwarded to Town Engineer.

Item No. 7: Sharman, Marcella – West Street – Drainage pipe extension request. Issue forwarded to Town Engineer.

SUPERVISOR NEWLIN

Highway Grievance Issue - A grievance issue in the Highway Dept. was discussed in Executive Session.

Johnson MOVED to award three (3) hours over-time to the individual named in the grievance, Seconded by Palmer and Carried 5 – 0.

Shared Service Agreement – Town and Niagara Wheatfield School - Newlin has spoken to several Colonial Village residents regarding increased recreational opportunities with the school.

Bax, Dashineau and Newlin have been working with the school district to finalize an agreement to allow Lewiston residents, which live in the school district, to participate in the activities that are already afforded to Wheatfield. There will be no additional cost to the Town.

Johnson MOVED to authorize the Supervisor to sign the Joint Municipal Cooperative Agreement between the Town of Lewiston and the Niagara Wheatfield Central School District for Joint and Shared Services, Seconded by Bax and Carried 5 – 0.

Funds for Infrastructure Repairs in Village - A letter received from the Village of Lewiston notified the Town that on May 27, 2009 the Trustees passed a resolution for I & I Repair to the sanitary sewer system at a cost of \$99,800. This is for the area of Cayuga, Third Street, Seventh Street and Fairchild Place.

Newlin said the Village did not enter into Re-Licensing negotiations with the Power Authority but the Town has agreed to help them out when it can. This is an appropriate expenditure that will benefit both the Town and the Village.

Palmer, Johnson and Edwards thanked Bax and Lockhart for working with the Village.

Johnson MOVED to authorize the expenditure of \$99,800 for Infrastructure repairs in the Village, with funds from the NYPA funds, Seconded by Bax and Carried 5 – 0.

Greenway Update - The pathway from Devils Hole to the Village is moving along. A public hearing is required for this project.

Bax MOVED to set a Public Hearing for Monday, August 10, 2009, 7:00 p.m. for the Bicycle Pathway, followed by a Regular Town Board meeting, Seconded by Johnson and Carried 5 – 0.

The first project funded with Greenway dollars, The Freedom Statue, is also moving along. The statue is being made in Colorado and then shipped to Lewiston. It should be here by the end of September or beginning of October. It is a very impressive object that is going to put Lewiston even more on the map when it comes to tourism.

Newlin said the Town has received its annual disbursement of \$510,000 from the NYPA.

Newlin will be working with Dashineau and Bax on a proposed Splash Park within the Town. The Recreation Department and the Advisory Board have flirted with this idea of a Splash Park for several years. Funding of this has always been a question, but with these new avenues of funds it could be paid for.

Bax wants to clarify that the “Splash Park” in discussion is a small water park for small children with a rubberized base. It would be like the one in Youngstown and the City of Niagara Falls.

Justice Court Assistant Program Grant

Newlin MOVED:

Resolution: Support of the Justice Court Assistance Program Grant Application for the Town of Lewiston Justice Department

Whereas the State of New York Court System is soliciting applications from local governments under the Justice Court Assistance Program to assist local Justice Department needed equipment, automation, furniture, supplies and training.

Whereas the funding available under the State of New York Court System would facilitate local efforts in upgrading the Town’s Justice Department

Resolved that the Supervisor of the Town of Lewiston is hereby authorized and directed to file an application with the Justice Court Assistance Program.

Councilman Bax	Aye
Councilman Edwards	Aye
Councilman Johnson	Aye
Councilman Palmer	Aye
Supervisor Newlin	Aye

Seconded by Johnson and Carried 5 – 0.

Broadband Stimulus Grant for Wi-Fi - Newlin would like to get Wi-Fi Internet access available within the Sanborn business district. This is a thriving community. At this time there is no cost to the Town. If this changes the Board will be notified. Newlin requests authorization to pursue a grant with Niagara County.

Edwards MOVED to authorize the Supervisor to pursue a grant with Niagara County for Wi-Fi Internet access for the Sanborn business area, Seconded by Bax and Carried 5 – 0.

Designation of Sentinel as Secondary Town newspaper

Newlin MOVED to designate the Lewiston-Porter Sentinel as the secondary newspaper for Town notices, Seconded by Johnson and Carried 5 – 0.

Peach Festival Advertisement - A request to advertise in the Peach Festival brochure.

Edwards MOVED to advertise in the Peach Festival brochure, with dollar amount not to exceed 2008 amount, with funds coming from Celebration, Seconded by Bax and Carried 5 – 0.

Tower application – Calkins Road - Leone feels this needs to be addressed in Executive Session because the Board will need the advice of Counsel.

COUNCILMAN EDWARDS

Sanborn Business & Professional Association request sidewalks / streets be addressed - A letter received from the Association requests the area of Buffalo Street between Route 31 and Niagara Street be considered for repair. The current condition is unsightly and impassable.

Edwards said several efforts have been made to address this but it is the Towns understanding that Buffalo Street is a State Road, therefore making it difficult. Without funding from the State or Federal Government a streetscape or improvements are not possible.

Newlin received several complaints and would like to see something done. At least get something started. The Engineer is working up some plans.

Bax said the Board is dedicated to making the improvements.

COUNCILMAN JOHNSON

Johnson requests an Executive Session for a Police personnel issue.

COUNCILMAN BAX

Recreation Hire - Due to an immediate need within the Recreation Summer Program a phone vote on July 7, 2009, was taken to hire additional applicants. This action should be read into the record.

Bax MOVED to hire Braiden Oakley @ \$8.50/hr. and Adina Pera @ \$8.50/hr, Seconded by Johnson and Carried 5 – 0.

Zoning Board of Appeals – appoint member to fill vacancy - Bax requests Board members review the three applications received.

Johnson recommends the Building Inspector meet with the applicants and report back.

Masters said the Town Code states the Zoning Board of Appeals is made up of seven (7) members, as of today the Board is only five (5).

Leone has researched this in the past and requests time to report back.

Appointment to be added to the August 10, 2009 Board meeting agenda.

Claim - A Claim was discussed in Executive Session prior to the meeting.

Johnson MOVED to allow Councilman Bax and the Attorneys to settle the claim, Seconded by Bax and Carried 5 – 0.

Cationic Polymer Bid Award - Lockhart secured bids for the Cationic Polymer

Bax MOVED to accept the Bid from SNF Polydye at the rate of \$0.97/lb, Seconded by Palmer and Carried 5 – 0.

Bax spoke of the old Waste Water Treatment Plant which is located in the center of the LOOW site. The old structures, some of which have been knocked to the ground, are open pits, or open entry-ways to a basement, are all exposed. The Corps has been out there doing testing. When Corps members have been there they have discovered smoldering bomb-fires. A liability to the Town does exist at this site. There are ATV trails leading back there.

There is a 30-inch clay-tile pipe near the Lew-Port School campus that is open. Technically the pipe is in the Town of Porter but the Town owns it. It is a permanent easement for the Town. It was used as a discharge pipe from the old Sewage Treatment Plant.

Bax asked to allow Amy Witryol to address this. Amy Witryol feels this is a very difficult situation and there is a big question as to what responsibility is the Towns and what the Federal Governments is.

Palmer MOVED to enter into Executive Session to discuss the proposed Tower, Police personnel, two litigation items and a suit claim, Seconded by Johnson and Carried 5 – 0. (8:30 p.m.)

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Koryl; Attorney Lusk and Attorney O'Tillo representing Verizon

Discussion on Cell Tower application on Calkins Road. Discussion on Police Personnel issue and a suit claim. Discussion on Ed Lilly issue regarding legal fee reimbursement and the Massaro development issue.

Johnson MOVED to exit Executive Session, Seconded by Edwards and Carried 5 – 0. (10:10 p.m.)

Bax MOVED to authorize payment up to \$100 for Suit Claim, Seconded by Palmer and Carried 5 – 0.

Transcriber and Respectfully Submitted by,

Donna Garfinkel
Deputy Town Clerk