

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Koryl; Eng. Lannon; Adm./Op. Lockhart; Finance Officer DiRamio; Bldg. Inspector Masters; Recreation Dir. Dashineau; Highway Supt. Reiter & Town Clerk Brandon. 2 press reps and 25 residents.

The Supervisor opened the meeting at 7:10 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

Newlin: This Board has been grappling with what is the best place for the Verizon tower that has been in discussion in the public for a month or two. Over the last week, I have been going thru the minutes from the Planning Board along with supporting document and this morning I went to the two sites. One is on Calkins Road and the other at the WPCC. I had to keep in mind that at Calkins Road we are faced with a tower of 100' which would be a monopole. At the WPCC site, we are going to have a tower of 150' that would require some semblance of super structure to support a tower that is about 5 stories high. When I contrast those two sizes, plus the fact that they are clearly more residents that would be impacted if the tower was sited at along the corridor of River Road compared to the very few if any would be affected from aesthetic perspective if the tower was sited at the Calkins Road. My firm belief is that the tower between the two places is better suited at Calkins Road. Since that time I have spoken to the members of this Board and I think we are in agreement on that and we will discuss this later. Secondly, I have spoken with Verizon and they are happy to reconsider the Calkins Road site as well as members of the Planning Board. I spoke with Chairman Bob Martinez and he would be glad to hear these arguments at the June Planning Bd. meeting. I asked Mr. Nearpass who represents Verizon to come back next month to the Planning Board and then we will get a recommendation from them. The Planning Board is an advisory body, so it's judgments and decisions while we agree with them 99% of the time, this Board is the finally arbiter of it's decisions. We may overrule them or we may agree with them but that is to be seen next month. I wanted to give the public more information for those who may want to comment on it this evening.

RESIDENTS:

Anthony & Jerri Presutti of 4160 Calkins Road. I want to thank you for reconsidering and noticing that it is a much better site. It is basically an open meadow with a mature forest. Ours is the closes house and it would be the least obtrusive site for the tower. We appreciate your reconsideration.

William Briggs of 8436 W. Rivershore Drive. On May 8, 2008, I asked the Board to approve my agency to do third party electrical inspections. You did not have a problem with that and left it up to Mr. Masters. I got a letter from him "Stating that he did a review and he discussed that at times we did see a need for another third party electrical inspection. On April 23, 2009, I received a letter from Mr. Koryl confirming our conversation of the Town's Code Section 84b providing that the inspectors of Lewiston represented by the NY Board of Fire Underwriters and NY Atlantic Inland is hereby authorized to be agencies for the Town of Lewiston. As a result, Mr. Masters, the Town Bldg. Inspector cannot authorize any party to be electrical inspectors contrary to the above cited provisions. It is my further understanding that in the past you have applied to the Town to be an authorized electrical inspector. If you wish to reapply to the Town for authorization you should certainly do so. The Board may then review your qualifications and determine if a modification is appropriate". You did not have a problem with it on 5/8/08 and I would like some sort of answer.

Newlin: We will put it on the agenda from the next meeting and discuss it publicly.

Ken Kenney of 921 Onondaga Street. You have talked about putting the cell tower on Calkins Road. How much is the Town going to lose in revenue from the 100 feet tower where we were going to get paid for the 150' tower?

Newlin said he would address that issue under Mr. Bax' agenda.

Dorinda Hoffman of 4321 Riverwalk Drive So. I would like to thank you for your opening comments about the cell tower. I am as chairman of the Riverwalk HOA and am stating our strong opposition to placement of the placement of the cell tower. We moved to our 3 year old community because we admired the trees and beauty of Lewiston and the country like feel that we have in our neighborhood. We went to a number of meetings of the Board for the placement of street lights and stop signs. We are very glad to have this opportunity to speak in complete opposition to the cell phone tower. We as residents there are impacted by the noise that exists from the plant. Although we are grateful for some of the recent accommodations to cut down on the noise and the odor. We are also subjected to the constant ringing of the phones that come from the plant in that area and so we think the fact that you would consider adding another obstructive kind of thing for the neighborhood that we have around Joe Davis State Park would be contradictory to what we choose as residents to come to live there. One of the things that we admire at the park is the beauty and the number of families that are impacted by the activities that are there. I would encourage the council as a whole to support when we have people who are willing to have the cell tower on their land. I don't think for the small amount of money that the Town would be losing overall, you should be thinking about the beautification of our community and the impact that it has on the large number of families.

Paul Christieson of 446 Riverwalk Dr. We bought our house in 2005 and it is really a beautiful area. We moved here from Colorado and what attracted us was the town, the area and a great place to live. If we would have known a cell phone tower was going to be even considered to go up in the park or close to the plant, we never would have considered Lewiston as a place to live. I am speaking for myself but I did know that was the same statement that all of my neighbors made. This is something to consider that if you are trying to attract people to this Town and you are putting up structures like that and you have other options that seem to be more viable, it is going to deter people from coming to the Town to find suitable living.

William Woodley of 4163 Calkins Road. I live directly across the street and I am in favor of the Presutti's having a cell tower there. I am sure that Verizon has put a balloon up for about 2 weeks which you could see.. It wasn't that far above the tree line and if anyone was impacted it would be me. I would be the person that would have to look at it all the time. It didn't seem that the balloon that they had in place was that obstructive at all. It did not look out of place.

Richard Knowles of 538 Riverwalk Drive. We appreciate your decision to reevaluate this and we certainly support having the tower on the Presutti property and they want it. It sounds like a great place. We paid a premium for our property to be next to the woods and we see the plant thru the woods and hear the phones. It would be great if you would put the tower out where people seem to think it would be a great idea and not right down here by this community and impact all of the residents.

Amy Witroyl of 4726 Lower River Road. For at least the past 10 years, the "Power for Jobs Program", the NY Power Auth. has been providing low cost power to CWM. A 3 year re-application was approved in 2003 under the Pataki administration with one year extensions approved in 2007 under the Spitzer administration and in 2008 under Gov. Patterson. Since I last spoke to you I have been able to complete the calculation of CWM's school taxes for property owned in both Lewiston & Porter and it is not the \$675 per acre that was mentioned before. CWM pays only \$595 per acre in school taxes. By comparison, the AES plant in Somerset pays about 10 million dollars a year in school tax while CWM pays about \$487,000. Does NYPA think CWM means more to the waste than that? Again 10M a year vs. \$487,000. Why were benefits granted by NYPA while more than 200 CWM jobs were being shed between 1994 and 2005? CWM had just 80 employees in 2007. Hazardous

waste landfill operations produce no goods, no energy and permanently deplete land while contaminating it. DEC data shows that NY business and NY Brownfield programs are not reliant on CWM. A hazardous waste landfill in the midst of a region the State is trying to make a world class tourist destination is clearly a disadvantage to economic development. CWM stated last Nov. that it spent 10M annually in this state. However, CWM investments “regulator mandated cleanup of contamination from operation” not investments which produce economic growth and anything sustainable. Moreover, the cleanup expense and the equipment maintenance are portrayed as “investments” and continue after the facility closes pursuant to a perpetual maintenance agreement. If the Niagara region can accomplish in the next 12 years just half of what our Canadian counterparts have accomplished in the last 12 years, annual tourism spending here would increase by billions of dollars and with thousands of new jobs. Much of the Niagara tourism assets likely to extend visitors stays are located north of the Falls and what do we have in the middle of it...low cost power to CWM apparently. CWM does not foster economic development, it fosters economic depletion. It is my understanding that current NYPA benefits received will expire on June 30<sup>th</sup>. If the State decides to continue this program, I encourage this Board to tell NYPA how you feel about any more extensions to a company that takes more from our economy than it gives.

AGENDA:

Bax asked to authorize the Supervisor to sign the Storm Water Report.

Edwards: Personnel issue for drainage.

**Motion to approve the amended agenda made by Johnson and seconded by Bax. Carried 5-0.**

MINUTES:

**Bax MOVED for the approval of the minutes of the RTBM of April 27, 2009. Seconded by Johnson and carried 5-0.**

POST AUDITS: No post audits at this time as reported by Councilman Palmer.

OLD BUSINESS:

1. Modern Community Advisory Cmte. Report

Newlin recognized the members of the community and thanked them for their hard work and time spent on this report.

Vincent DiMarco, Chairman of the CAC.

In August of 2008, the Citizens Advisory Cmte. was formed. In Nov. of 2008, Modern made two proposals to the committee. One was to move part of the recycling operation within the parameters of their existing property and the second was an increase in tonnage of approximately 250,000 tons of waste per year. In Jan. of 2009, the committee was in a position to make recommendations to the Board and the recommendations are as follows. The motion was made and passed unanimously by all members present to recommend that the Town Board reject the Nov. 2008 proposals by Modern Landfill Inc. The committee members were also in unanimous agreement as to the reasons for rejection which are as follows:

\*The Town of Lewiston would lose a total of \$4,500,000.00 in Host Community Annual Fee if the proposals were implemented. Under the existing Host Community Agreement (HCA) Modern pays a Host Agreement Annual Fee of \$500,000. The proposals would result in the closure of the site nine years earlier.

\*The committee does not view Modern's contention that truck traffic will be reduced under the proposals as credible.

\*The proposals specifically omit the need for the Alternative Daily Cover (ADC) to accommodate the increased tonnage request. The ADC constituting the dirt that goes on top of the landfill.

\*Similarly, the proposals do not address the issue of increased truck traffic that would result as a consequence of providing the additional ADC for the increased tonnage.

\*The increased annual payments to the Town of Lewiston as projected by Modern Benefit Projection Statement would result only if the full proposed tonnage increases were, in fact, realized each year. Additionally, the Modern proposals will simply result in the Town receiving tipping fees over a longer period of time, for ultimately, the same tonnage.

\*If the landfill is closed earlier, Town residents will have to pay for outside trash collection at higher rates nine years earlier than if the landfill is allowed to extend to maturity.

\*Modern has neglected or refused to respond to the committee's request to separate Phase I and Phase II requests so that they may be treated as two separate proposals.

\*Modern has requested amendments to the Host Community Agreement yet, has thus far, refused to consider or even discuss any other amendments to the HCA which may be beneficial to the Town of Lewiston.

A second motion was passed unanimously to recommend that the Town Board engage an independent Accounting Firm to audit the compliance of Modern under the existing HCA.

In closing, and as always, I am proud of the work of this volunteer and non-compensated committee of citizens as they pursue the difficult and time-consuming task of protecting the Town's interest as they pertain to the Host Community Agreement. We are unequivocal in our recommendation that the Town Board reject the amendments to the Host Community Agreements originally proposed by Modern Landfill Inc.

That was our work up until Jan. 20, 2009. Thereafter, our committee in the hopes that Modern would return to a negotiating table that was in fact never set, we have made additional recommendations for enforcement and monitoring of the current Host Community Agreement as well as improvements to any future "Community Agreement" that maybe negotiated. Again, with your permission I would like to enter this into the record.

After careful consideration of the current Host Community Agreement (HCA) and the Local Landfill Law, the Modern Community Advisory Committee (CAC) has formulated recommendations regarding the current HCA: however, additional information is required to answer additional questions regarding Alternative Daily Cover (ADC), Non-Usable Recycling and Tonnage. As previously discussed with the Town Board the CAC requests that the Board compose a letter asking Modern to address these questions in writing. A future findings document will be prepared for the Board regarding these issues.

The CAC recommends the following Enforcement and Monitoring actions to assist in the management of the HCA and to help mitigate issues regarding trucks.

#### **ENFORCEMENT AND MONITORING**

1. **COMPLIANCE AUDITING** – A periodic review should be preformed by qualified independent experts to ensure compliance under the HCA and Local Landfill Law.
  - \* Financial (accounting) – To ensure the Town is receiving full and accurate compensation.
  - \* Legal – Adherence to procedures and policies outlined in the Local Landfill Law and HCA.
2. **RESIDENTS NOTIFICATION** – Because the burden of Modern-generated truck traffic falls mainly on those who live on the truck routes, it is recommended that the Town notify these residents via mail or any request to modify the HCA or the Local Landfill Law prior to a public hearing on the matter. Modern should reimburse the Town for mailing costs associated with the mailing.
  - \* For residents who feel that they are impacted by the truck traffic and noise but are not Located on the stated routes in the HCA and Local Landfill Law, there should be an opt-in policy that allows them to be added to the list of individuals to be notified.
  - \* This is in addition to current public notice mechanism.
3. **TRUCK SIZES** – The Host Community Agreement is very vague in this regard, simply Stated "*Modern will not employ trucks longer or wider than those in service as of the date of this agreement*". This agreement was signed 07/15/1999.
  - \*Clarify current agreement language on truck sizes (i.e. maximum tonnage, length, weight, tandem requirements). Unfortunately at this point no one knows what the size of those trucks were.
4. **TRUCK ENGINE NOISE** – Commonly known as Jake Braking or engine braking, is a real concern for the residents who live along the truck route, as well as those sharing the roadways with these trucks. The loud noise is the use of engine brakes in vehicles with poorly muffled or un-muffled exhaust systems, exhaust systems that have been illegally modified or are poorly maintained.
  - \* Establish a periodic truck inspection program, including a brake/muffler inspection with improperly maintained vehicles ticketed and report.
  - \* It is also recommended that the Town request the State Department of Transportation post signs in selected areas stating "No Engine Braking Except for Emergencies" of similar message.

#### **LOCAL LANDFILL LAW**

Modern was approved to operate in the Town of Lewiston with the understanding of a specific limits on its business; these limits are listed in Section 24-C-15 of the Local Landfill Law and include but are not limited to, the amount of annual tonnage, acreage, and the height of the landfill. Because prior understandings have not always been adhered to, the Local Landfill Law was enacted to regulate and restrict landfill operations and more importantly protect the residents from the undesirable effects of landfill operations (truck traffic, property values, noise, odors, blowing litter, etc.)

Within the framework of this law there is no provisions that would allow Modern to simply change the annual tonnage volume previously agreed to with the Town. As we understand it, under this law a request to increase the annual tonnage volume (or any item in Section 24C-15) would require a construction permit. This process is then subject to full examination and scrutiny

by the Town Board, the citizens and any professional(s) engaged by the Town Board to evaluate the environmental impact and financial claims of the request and the Host Community Agreement (HCA) is open for changes.

But if you change the law first, specifically the tonnage limits stipulated in Section 24C-15 to reflect the new tonnage amounts that Modern wants, now a less stringent variance can be sought. This occurred in 2003, the Town Board approved Modern's request to increase the tonnage restrictions in Section 24C-15 of the Local Landfill Law, (increasing the annual volume restriction from 608,000 tons to 808,000 tons) and a corresponding change to the tonnage stipulation in the Host Community Agreement (HCA).

In granting the change to the tonnage restriction in the Local Landfill Law and then amending the HCA, the 2003 Town Board circumvented the protections put in place for the residents of the community. This would have been the perfect opportunity for the 2003 Town Board to have evaluated any weaknesses in the HCA and to have eliminated the Town Garbage Tax but they asked for nothing in exchange for the additional burden placed upon this community. The Local Landfill Law does not state Modern cannot request changes to the agreement with the Town but puts a framework in place that should be followed to ensure that the environments, future well-being and interests of the community and residents are put first.

### **FUTURE RECOMMENDATIONS**

Because of the scope of the issues and the lasting and irreversible impact of decisions made by the previous Town Boards regarding the HCA and the Local Landfill Law, it is strongly recommended that in the event the current or a future Town Board decides to grant any changes, a Negotiating Committee be formed. This committee would include professionals, financial, waste, transportation, and legal fields working on behalf of the residents to ensure the interests of the community are protected.

The following is an incomplete list of weaknesses in the current contract.

1. Currently, the Town's tipping fee rates and the annual Host Community payment are not adjusted for inflation; the annual \$500,000 payment has been the same since 1996<sup>1</sup>. Tipping fee rates are adjusted annually by Modern using the Waste Price Index (WPI) an index controlled and calculated by Modern and not independently verifiable. As a result of the WPI, tipping fee rates for the Town, Artpark and the Department of Recreation did not increase for eight (8) years.
2. Tipping fees should be paid on Alternative Daily Cover (ADC). Currently, Modern can bring in approximately 200,000 tons of ADC annually; this is in addition to their current permitted 808,000 tons of waste. ADC is responsible for thousands of trucks traveling through Lewiston and the Town should be compensated.
3. The current Host Agreement contains a clause which basically states that if any state or federal legislation is passed that result in a tax or levy payable from Modern, that amount will be deducted from the annual \$500,000.00 paid to the Town for hosting the landfill. In any future agreement this clause should be removed.
4. Today we pay a garbage tax of \$35.00 per household and Lew-Port campus pays \$3050.00 per year. Any future agreements should provide free household trash collection for residents and the Lew-Port campus until the landfill is closed.
5. 1-800 Number required in HCA for reporting complaints should be received by the Town of Lewiston. Currently, Modern's dispatch receives the call.
6. There is 60,000 annual tonnage exemption on recycling tonnage. In light of Modern moving a portion of their recycling business to Buffalo this exemption should be reviewed.
7. The perpetual care fund will be 7.5 million on December 31, 2032, the principle and interest is to be used for maintenance and upkeep during the 30 year post-closure period. At the end of this period, the Town keeps the principle but all interest is paid to a Modern designee. This amount should be increased in any future agreement and the Town should keep both the principle and interest.
8. The annual operating permit fee(s) should not be credited by the annual Host Community payments(s).
9. Tonnage increases reduce the life of the landfill, for every year lost the Town loses \$500,000 in future annual Host Community payments. Some form of compensation should be considered to account for this loss of future revenue to the Town.
10. In 2008 forty-two (42) percent of waste buried in the landfill was from Canada. Is it certified to U.S. standards before importation?
11. Modern must drop any claim(s) against the Town of Lewiston.
12. Modern to reimburse the Town for all costs of monitoring the HCA.
13. There is a direct correlation between tonnage volume and trucks on our roads, more tonnage means more truck and/or bigger trucks. Today, truck traffic volume is managed through tonnage limits but the tonnage limits have increased and are under continual pressure to increase. Any future agreement should have a realistic truck management plan.

<sup>1</sup>Beginning in 2013 and every ten (10) year period thereafter, the annual Host Agreement payment will also be adjusted by the WPI.

The above is not a recommendation to the Town Board to enter into negotiations with Modern but meant to educate and point out the complexities of the situation in the event this Board or any future Board decides to negotiate. There are more issues to consider than simply financial concerns. There are environmental, health, safety, and the future well-being of the community. The Town is under no obligation to consider requests from Modern to expand their interests. More importantly, the number of roads that Modern's trucks can travel has remained the same, and any negotiation would involve increased tonnage, which means more trucks on the already heavily traveled routes.

Sincerely,  
Vincent DiMarco  
Chairman, Modern CAC

Newlin: Thank you very much Mr. DiMarco, we appreciate the time that you put on. To clarify, these are the opinions of the Board as a whole not just yourself. I am very glad to have worked closely with this committee over the last 9 months and I want to thank them personally for this extensive report that I think will serve this and future Boards exceedingly well and for the record I wholeheartedly endorse the support and recommendations and observations. A lot of these were concerns that I had a couple of years ago and you put more meat on those bones and raised some that I did not catch myself. If you have any questions that you would like to ask them now that is appropriate or we could also move it to a later date if you would like time to digest the information. Also, if we do go into contract negotiations, an executive session might be appropriate there.

Palmer: I would like to thank the CAC for the comprehensive report. You answered a lot of questions that we have. Obviously, we don't have the time to delve into it and I know that I am very satisfied with many of my questions that have been answered by your research and your diligence. I guess the gauntlet have been tossed back to the Town Board in as much as weighing our options concerning Modern's proposal to amend the HCA. This is something that has been on the table for months or maybe a year or more and I would personally like to see some resolution to this issue sometime in the not so near future. Thanks to your work, should this Board decide that we want to enter into some kind of negotiations with Modern, I would like to see this resolved within 30 days. Hopefully, we will be able to come back with some kind of finality in that time frame. I plan on pursuing this with my board members. We need to either act on this or let it go.

Edwards: I would like to thank you and the committee. I would like time to digest this information as it is complex.

Bax: I would like to mirror the comments that have already been made and I know that it has not been an easy road. I have been to a number of meetings also and a number of the members had of one mind on an issue and the others were of a different mind. But they all came to a consensus after talking it out and I believe what we have in front of us really does represent something that will take the Town in the right direction. Thank you for all your efforts.

Johnson: I mirror the thoughts and thanks to the committee for the work that you have done. I just wish you had been around in 2003.

Newlin said in his opinion we to have to do some follow through with Modern to get a few of those questions answered whether it be truck size and I also think there are some changes that we can implement sooner in the coming weeks and months. The easy one is resident notification to make people who are affected by route changes, increased traffic or increased tonnage on the routes are notified. I think it is an excellent consensus/agreed upon position and I cannot imagine anyone would have difficulty with.

Bax: The issues of the no engine brake zone stand out so that we can make a request to DOT. They have put up signs on Military Road, Route 104, and Lewiston Hill and would benefit people at the bottom of the hill.

Newlin said we could move forward with some of those things but others we need to get some information back from Modern. I will try to get that info and be in touch with the chairman. Thanks for your work as you have made this a better process and I think that the Town is better informed because of your efforts.

Johnson mentioned that he had seen signs regarding the "no brake zones".

Edwards said that in 2006, the Board did pursue this in the Escarpment area and the DOT does not have jurisdiction over this so we perhaps could pursue this.

Newlin said we could talk with Modern about this.

2. Drainage Issues at 5455 Bridgeman Road and 533 Fairway Drive.

Lannon: On Bridgeman Road, we did two site visits that were completed on May 27<sup>th</sup>. Mr. Britton met with Mr. Parkhill and the issue is the storm water in the ditch behind the homes between Townline and Bridgeman Roads are restricted down to the catch basin. We observed that there is a 24" pipe exiting this catch basin, 2 12" pipes entering it as well as 1 8" pipe coming into it. After discussion with the homeowner it appears that the 8" pipe is a bottleneck restricting flow leaving the yard ways to the catch basin. It is our recommendation that the 8" pipe be replaced with an 18" diameter pipe and re-establish about fifty feet of the ditch heading into that catch basin that is further down. Should the Town consider doing this....cleaning the balance of this ditch is not as critical as the pipe replacement. We would recommend obtaining a ditch card. There is a letter from Mr. Parkhill giving permission, but it is not a ditch card.

Newlin said we would try to get an official ditch card signed.

**Edwards MOVED to forward this project at 5455 Bridgeman Road to the Drainage Dept. with the recommendations of the repair and replacement of pipe. Seconded by Palmer and carried 5-0.**

533 Fairway Drive:

Lannon: Owner is Mr. Ken Tompkins and the issue is the storm water flooding his backyard. It appears that the rear yard drainage ditch has been obstructed by flower gardens, sheds etc. that prevent the water from draining. We determined that there is a catch basin around the curve that has an 8" clay valve pipe coming from the area where the problem is occurring. We don't know how far back that goes or where it goes. We checked the map cover and the area was built around 1939 (Lewiston Estates) and at that time there was no drainage easement shown. We have asked Mr. Sharpe to see if he could find a set of construction drawings in order to find where the pipe goes and see what condition to see if it can be re-established. The resident agreed to go into his rear yard to see where the pipe is.

Edwards asked that it be put under old business for the work session.

Johnson stated that in the past other residents have had problems there. Also, there is a creek in back near the golf course and it might be causing problems on the Fairway Drive area.

3. Verizon Wireless-Service Testing.

**Bax MOVED to remove this item from Old Business: Seconded by Johnson and carried 5-0.**

Newlin: For the record and the public's benefit, that is the only action we are going to be taking with regards to the Verizon tower this evening.

4. Fire Bureau Alarm Fees-Dedicated Fund.

Johnson: At the last meeting the Fire Bureau requested that the funds be dedicated for training purposes. The budget officer explained that the Fire Bureau alarms fees go into their overall budget. They will be meeting soon and I will explain that the monies are already in there. If they want to use any monies left over, it can be used for training. I would ask that this be removed at this time.

5. Capital Funding-Colonial Village Park Backstop:

Bax: I have spoken with Mr. Dashineau and our Town Atty. with respect the town's rights. We have a lease on the property (Colonial Village Park) until May of 2010. Mr. Dashineau has stated that the funds are in a capital line for the improvement to the baseball field including a backstop.

**Bax MOVED for approval the expenditure of \$4,402\* for the Colonial Village Baseball Field Backstop. Funds to come from TE-04. Seconded by Johnson.**

Johnson: I would suggest as an amendment that we sit down and discuss that if we are going to spend this money in the park that we renew the lease instead of waiting until May of 2010 and find out that we can no longer do it.

Leone stated that the terms of the lease appear to give the Town the option to renew for one ten year period. We should be able to do that anytime up to next May. The improvement itself...there is a clause in here that you are to consult with the Lewiston Fire Co. #2 before you make any permanent improvements to the property. However, they are the ones that asked for it. If the Board decides to renew the terms of the lease you ought to be able to do that with no problems based on the current language in the contract.

Edwards: I think it would be appropriate to renew the lease for 10 years.

Johnson: In conjunction with this investment, if next May they decide they do not want us to renew, we have spent \$4000-\$5000.

Leone: They cannot refuse. The lease states that it will run for a period of 10 years @ \$1 per year and the lease will be renewable at the end of the 10 year period or a successive ten years at the Town's option.

Johnson said we should talk with Mr. Dashineau and see if we want to take that option along with the investment. We should go through with the project but inform them that we want to renew now instead of May of 2010.

Bax: We would be cutting one year off of the lease by doing that.

Johnson stated that we could inform them by letter that the Town is going to be putting in this investment and we will renew our lease in May 2010.

Palmer said there is no chance that we can lose the 10 year option.

Leone: The only way is if we don't exercise on time or decide not to renew.

**On the motion 5-0.**

6. Park Hires.

Bax asked for this item to be removed pending receiving the list of names.

7. Shared Services Agreement with N-W School.

Bax: This involves sharing some of our parks with the N-W District whereby they would be able to use some of our parks and equipment in crunch times.

Dashineau: At this time we are looking for permission to discuss the parameters about sharing services in our recreation departments.

Bax: Mr. Dashineau has a list of parameters wanted to provide to Mr. Leone and from there a formal agreement would be drafted.

**Bax MOVED to allow Mr. Dashineau to pursue negotiations & discussions with N-W District on a shared service agreement. Seconded by Palmer and carried 5-0.**

**NEW BUSINESS:**

1. A request from Michael Dombrowski for additional stop signs at two intersections on Riverwalk Drive. I have been informed by Mr. Palmer that there is no throughfare at this time.

Palmer said this where the east side connects to the west side which are at this time are not connected as there is a stone road in the middle. There are two proposed streets there that will be heading north off of Riverwalk. Mr. Dombrowski's concern is that there is a potential for cut thru traffic similar to Joe Davis Park. His concern is that people will be using this to go from Pletcher Rd. to Lower River Road. At this

point it is way to premature to act on this. We cannot use stop signs to slow traffic. Stop signs are to control traffic at intersections. Perhaps Mr. Dombrowski would come at a later time when there is an actual road there.

Masters stated that Phase 3A and 2C was supposed to be phased by April 15<sup>th</sup> and this has not happened. I have not had any cooperation with this.

Newlin said he has contacted Lewiston Fire Co. #1 and they too have a concern about egress.

2. A complaint from Callie Smith, 4660 Model City Road regarding Washuta Park which is next to her home. Baseballs have been hit into her yard and pool and almost hit her 3 year old and she wants something done before someone is hurt.

Dashineau: A Lew-Port baseball player hit the ball over the fence early in the season. Safety wise we could put a net up there. The length of her property runs almost the length of left field. We have a 6' fence and even if we make it 12', I don't know that it would provide that much more protection.

Newlin asked that Mr. Dashineau and Mr. Sharpe visit the property and give the Board a recommendation as to what our options are. It is a safety issue.

NEWLIN:

Legal:

Nothing at this time.

Engineering:

Johnson: Have we received any correspondence from State Parks.

Lannon replied nothing at this time.

Johnson stated that the developer has mentioned to the residents that all of the paperwork had been sent to State Parks.

Lannon said we were hoping to send the paperwork but there were some miscommunications with the developers.

Pathway Update:

Newlin: I appeared before the WNY Greenway Comm. to seek their approval and agreement that the scenic pathway down the Escarpment was agreeable to their idea of what a greenway constitutes. We got a unanimous vote in support. That was good progress and I appreciate Mr. Rotella's work. Then I went before the Host Community Standing Cmte. which is the funding body and also got unanimous support. That authorized the \$210,000 which will pay for the design cost. The Board previously authorized me to pursue a contract with HMM Engineering which I signed.

Leone said that there were changes that he had requested. We met with Mr. Rotella and Mr. Walsh from their firm and they agreed to some of the changes. The contract is signed and will be mailed.

Newlin said we will hear from HMM in about 60 days and then the Board will have input on the physical route. We will have public hearings on this matter in the summer or early fall.

LCTV Contract:

Newlin: In executive session last Monday we talked about numbers. The agreement that is proposed right now by LCTV is \$50.00 an hour. It starts when they leave the studio in the Town of Lockport, travel time, the duration of the meeting and the return time. For a 2 hour meeting that would be about \$200. With 2 meetings per month for the rest of this year it would be around \$2400. We had appropriated money in '07 budget for a newsletter that was not produced but the \$16,000 was encumbered in

2009 from 2008 which will not be impacted. If we like the experiment and it goes well, we will continue that '08 money to pay coverage in 2010 and 2011 if this Board chooses to do that.

Johnson asked if we are on a month to month with them.

Newlin: Yes. Month to month basis and are we will be billed when they come here.

Bax: I would be more comfortable if we heard from some people who have seen it on TV. I would appreciate a phone call if they have seen it and that it is serving some sort of useful avenue of communication.

Newlin stated that he has spoken with several residents who have seen it. Also those who serve on advisory boards who cannot make our meetings and this would allow them to be better informed. We previously had better newspaper coverage than we do now but sometimes the press cannot attend every meeting. Also other communities who have this service will state that it is an invaluable way of reaching some segment of the population that cannot attend the meetings. The more people who see it will not come and blindsides us with issues. It encourages open government and more public participation.

Palmer: At the last meeting, I did voice some alternative proposals including the internet and the web site. In light of some of the arguments that I have heard and the cost I am inclined to believe that the "bang for the buck" is there. I just hope that this does not promote grandstanding of any sorts. We are here to conduct business. We are not to play to the cameras and I hope we continue along that path. I am all for it providing accessibility for the handicap and those who's schedules do not allow them to come here.

Newlin: Mr. Zapp, the Executive Director did approach the Board and indicated that they are pursuing promoting internet access to these meetings. They are looking to get all of the meetings (County Leg. etc.) on to the web site and hopefully by the end of the year it can be done.

Johnson said trying it out to the end of the year is worthwhile. We could let the members of the public know in a newsletter that it is going to be televised at certain times and get back comments.

**Johnson MOVED that we enter into a contract till 12/31/09 with LCTV at the rate of \$50.00 per hour starting with travel time to and from their studio. Funds to come from the encumbered line from the 2008 budget. Seconded by Palmer and carried 5-0.**

EDWARDS:

Personnel Issue. To be brought up in executive session.

Roof/HVAC Contract:

I spoke with Mr. Lannon and we are waiting for the bonding and a letter to proceed for the general contractor.

Lannon stated that they are waiting for the bond from the general contractor. Then we can have a contract to be executed.

Edwards: There needs to be some urgency here. The rooftop units are running on a "wing & a prayer".

Newlin said we could make a motion authorizing myself based on the advice of engineer and counsel to enter into a contract with the firm that we awaiting bonding on.

Lannon: The contract has been awarded and we are waiting for the bonding insurance from the contractor. Once we get that and they are adequate we will submit them to the Supervisor. I will call them tomorrow.

Roof/HVAC Funding:

Edwards: This project needs to be paid for. We need to determine the funding source. The costs are around \$165,000 to \$170,000.

**Johnson MOVED to move \$175,000 from the Power Relicensing Monies into the Building Account. Seconded by Edwards and carried 5-0.**

Bldg. Inspector's Dept.

Mr. Masters has notified me about grass cutting issues. Last year when we passed the grass cutting law they were to inform the Board. I don't know if it is appropriate to discuss this now or in executive session as to not embarrass the resident.

Bax said I understand that there are about 10 properties. Do we authorize him to move forward with his list or do we have to specify them?

Johnson said no. We have allowed him to go ahead and do that and we can endorse it at this meeting.

Leone: I don't think we have to provide the list. Mr. Masters does have the authority under Town law.

Edwards said if there is a hardship with a senior, etc. there are special circumstances.

Bax: Mr. Masters can poll us by phone to make us aware if there are any sensitive issues.

JOHNSON:

Fire Bureau: I will inform you of the date for the next meeting.

BAX:

CWM/CAC Meeting:

The next meeting will be 6/15/09 at 4:00 p.m. and the public is invited.

Storm Water Report:

**Bax MOVED to authorize the Supervisor to sign the Storm Water Report for 2008-2009. Seconded by Johnson and carried 5-0.**

PALMER:

Nothing at this time.

Newlin: We would like to express our condolences to the family of Sandra Wizner, Sec. in the Rec. Dept. on the passing of her mother.

Also, Mr. Kenney asked us to address the possible loss of revenue regarding the cell tower. That cell tower revenues although it is nothing to be sneezed at, that amount would be \$10,000+ per year at it been sited on Town land. Mr. Leone and I went through as to where that money would end up. Originally, we had hoped we might be able to give some support to Mr. Lockhart's pressing needs, however it appears since the land is owned by the Town any revenues would go into the "A" fund. That is a budget well over 1M. It has a strong fund balance and if we were in financial difficulties it might be a concern. I think that the Board is pretty unified that our primary concern is preserving our integrity and quality of life and esthetic value of the community.

Johnson: There is a sidewalk problem at 5847 Buffalo St. Sanborn. I would like this to be referred to Mr. Lannon as to who is responsible. Also to Mr. Masters. We have been put on notice.

Bax asked to add a contractual item to the executive session for the Recreational Dept.

Edwards said regarding the backstop at Colonial Village Park, he did not recall the number and he would like it not to exceed \$4402\* (Not to exceed \$4402.)

The Clerk informed the Board of pending State Legislation related to shared services with an attached memorandum of opposition from the Assoc. of Towns. I ask that you review it.

**Bax MOVED to enter into an executive session to discuss 2 contractual and 1 personnel items. Seconded by Johnson and carried 5-0.**

Time: 8:30 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon  
Town Clerk

Executive Session:

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Koryl\* & Rec. Dir. Dashineau.

Also Present: Tom Singer, President of the N.F. Umpires Assoc.

Items Discussed:

Contractual Items (2).

Personnel Matter.

No action taken.

**Palmer MOVED to exist Executive Session at 9:30 p.m. Seconded by Johnson and carried 5-0.**

**Motion made by Newlin, Seconded by Bax that the Supervisor be authorized to take \$1000 from funds to be determined by the Budget Officer and pay it to the Lewiston Porter Community Ambassador Program. Carried 5-0.**

**Motion to adjourn made by Palmer and seconded by Bax. Carried 5-0.**

Time: 9:40 p.m.

Minutes taken by:

Deputy Tn. Atty. R. Koryl