

Town Board Meeting**September 26, 2011 6:00 p.m.**

Present: Sup. S. Reiter; Council Members A. Bax, M. Marra, E. Palmer & R. Winkley; Atty. M. Dowd; Atty. M. Davis; Eng. R. Smith; Highway Supt. D. Janese; Adm./Op. J. Ritter; Police Chief C. Salada; Budget Officer M. Johnson, Bldg. Inspector T. Masters & Town Clerk C. Brandon.

Also Present: 3 press reps and 19 residents.

The Supervisor opened the meeting at 6:05 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS:

Rose Mary Warren of 5842 Griffin Street. I still have a problem with the Sanborn Streetscape. I know it is finished but the Town did the work to save money. They didn't need to save money because you went to your grant writer who estimated what that the total would be and you received the money from the Greenway Comm. I still believe it should have been bid out for the sidewalks, trees and shrubs etc. The only thing that was bid out was the lights. I am going to contact the Attorney General's office because I do not think it was handled correctly.

I previously said that if the Town of Porter goes in with the Towns of Lewiston and Niagara in forming their own power program, they should pay more than one third. I requested a FOIL on how much money the Town of Lewiston paid to belong to the Power Authority. (\$53,000 alone)

Reiter stated that you have two things confused. The Power Coalition is the 7 governmental entities that the discount we are looking at on receiving power alone from National Grid. That is just Lewiston, Niagara & Porter doing something totally separate. I am trying to stop you so you don't get the two confused. A municipal power program that we are investigating that and we have not done anything other than talk to some people.

Rose Mary Warren: Porter wanted to be in the power coalition. The Town of Niagara and the Town of Lewiston has paid many years to be in the coalition. I am not against Porter going into this but they should be paying more than just going and paying one third because money has already been spent.

Reiter: It is totally **two different** projects.

Rose Mary Warren: Amy Witroyl had a manifest that showed 27 tons of material came to CWM from the Hudson River cleanup. The EPA spokesman said it was only sweeping brooms and hazardous protection suits. Why should the Town of Lewiston even take them? Hazardous dust could be released into the air or a truck could tip over in front of the school. I don't believe for one minute that hazardous brooms could weigh 27 tons which is what the manifest said. Many times these companies do good things for the community but it probably is a tax write off. I think that what Ms. Witroyl did is the truth.

Kathy Parmentier of 5945 Ward Road. I have a letter requesting to tie into the town's sewer line along with 3 other neighbors.

Reiter said that the Town will be addressing these issues in Sanborn soon.

Marie Parkhill of 883 The Circle. At a previous meeting I presented to the Board a petition requesting that our address be enhanced to the Circle Drive because all of my mail is arriving addressed to *The Cir.* and this makes me feel like I am being bulled when I bring my mail in. What progress have you made?

Reiter said we have not done a lot yet. It is an important issue to you and the other residents (55). We will get to it.

Dowd said it could be done by resolution but it may require a public hearing. I will have an answer by the work session. I don't know what the procedure is for changing a street name.

Palmer asked if anyone was in opposition.

M. Parkhill said not that she was aware of.

Reiter: We will address it with the attorney.

Paulette Glasgow of 836 The Circle. We signed the petition. Gentlemen, you can change this tonight. You don't need a public hearing. It is in Town Law with the only stipulation is that once you do it you need to give the clerk 10 days to notify the post office, Niagara County and other institutions. You can do this and alleviate Mrs. Parkhill and honor the 55 people that signed her petitions request, tonight.

Reiter: I will have our attorney research it and we do it on the 13th.

AGENDA:

Reiter asked for an Executive Session re; Personnel at the end of the meeting.

Palmer MOVED to adopt the Amended Agenda as presented. Seconded by Bax and carried 5-0.

MINUTES:

Bax MOVED to approve the Minutes of 8/22/11 RTBM; 9/12/11 Worksession and 9/15/11 Special Meeting. Seconded by Palmer and carried 5-0.

POST AUDITS:

Marra MOVED to include the following vouchers for a post audit payment: Home Depot \$49.86; Sam's Club \$1,152.66; Carrier Control II \$4,751.00 and Glynn Geotechnical Engineering \$12,900.00. Seconded by Bax and carried 5-0.

PENDING BUSINESS:

1. Badger Water Meters: We are waiting info from Verizon.
2. New Service Sewer Connections: Deputy Sup. Catlin who is absent tonight asked that this be put off until 10/13.
3. Back-up Generators, Notice to Proceed; We are waiting for the final prices of the Sanborn sewers to see what we have left in the funding. I think our real property improvements are much more important than the generators at this time.

OLD BUSINESS:

1. Award Elm/Annover Waterline Contract:

Bax MOVED to award the Elm/Annover Waterline Contract to Fairway Contracting of Orchard Park, N.Y. in the amount of \$669,959.03. Seconded by Winkley and carried 5-0.

2. Penrose Sewer/Approval: Eng. Smith requested that this be done at the 10/13/11 meeting. We are awaiting the as-builts. The sewer has passed inspection.

3. N.U. Scholarship Sponsorship Support:

Dowd: Town Law allows money for publicity funding for advertising for a variety of functions. If the Board can consider an advertisement for the celebration but we cannot give to a scholarship program. Mr. Winkley will look into this.

CLERK'S CORRESPONDENCE:

1. A letter was received from DOT regarding a traffic engineering investigation related to the intersection of Route 265 (Military Road) and Route 104 (Lewiston Road). Mr. Bax will address this.

Bax: We received a response from DOT on this with regard to the width of the left turning lane. DOT has determined that the 12' lane is standard. However, they are

intending to put additional pavement markings delineating the path for vehicles turning from Lewiston Rd. onto Military Road.

2. A letter from Joan Stephens, Receiver of Taxes & Assessments requesting approval to place the unpaid water and sewer accounts for the Town of Lewiston on the 2012 Town & County taxes. The breakdown is as follows: Water \$87,627.96; Sewer (Master) \$64,374.48; Sewer (South) \$ 8,834.01 for a total of \$160,836.45.

Palmer MOVED to place the unpaid water and sewer accounts on the 2012 Town and County taxes in the total amount of \$160,836.45. Seconded by Marra and carried 5-0.

3. A letter from Norman Matthews who asked what was the disposition of a matter that had been referred to the Police Dept by him.

Palmer responded that he had talked with the chief regarding this and apparently this case was presented to the Town prosecutor and rejected by him for lack of probably cause. We can ask the Town prosecutor to respond.

4. A letter from the Assessor informing the Board that the term of Ms. Rita Hager will expire on 9/30/11 and recommends that she is reappointed.

Bax MOVED to reappoint Rita Hager to the Assessment Review Board with a term from October 1, 2011 to September 30, 2016. Seconded by Marra and carried 5-0.

REITER:

1. Legal:

Dowd: Modern Disposal is going to get some compressed natural gas trucks. They have an existing fuel station located at the facility and they want to add some compressed natural gas which I understand will require a trench to be dug to bring a gas line over and an installation of the pumps to be in the same fuel area. I believe they discussed with the building inspector on what exactly it going to be placed there and the question is whether or not a site plan is even required under our new code. There is a site plan section that we did not have in our prior code. But, my reading of it is there is no structural, no buildings being installed and you are not changing the use of the property if they had like a waste facility. It is just simply an addition to its accessory use of using a different type of fuel. I don't think that site plan is required but they will have to get approval from National Fuel to oversee the installation of the pumps and get a building permit from the building officer to make sure that the pumps are far enough away from other distant buildings etc. But a formal site plan wouldn't be required. So, the building officer was looking for some guidance as to whether or not a site plan would be required. I would recommend to the Board that we not require that necessary in the code and propose that you as the Town Board oversee all site plan eliminations. You could just acknowledge by resolution that a site plan is not required, then that way the building inspector can issue various permits.

Palmer: This is being done to replace their trucks from burning gasoline to burning natural gas.

Dowd: It doesn't increase any of the allowable truck traffic; it just introduces natural gas trucks.

Marra said he believed that Modern Disposal received a grant as a part of the green initiative to use compressed natural gas which burns so much cleaner. That is the intent of this.

Palmer: The town should also look into some of these incentives to replace our fleet with cleaner burning gas as well.

Bax asked Mr. Masters if he thought we have enough safeguards within our building permit process to make sure that any of the issues that would be uncovered in a site plan would be addressed by your office.

Masters: We would have to have stamped plans by an engineering firm that would have all this layed out. It would have to comply with the NYS Fire Code, the National Electrical Code, Building Code and the National Architect Code. It would be inspected by Pat Martin, Atlantic Inland.

Palmer MOVED for the adoption of the following Resolution and seconded by Councilman A. Bax.

RESOLUTION 2011-14

The Town Board on request for a Compressed Natural Gas Fueling Facility from Modern Disposal Services Inc. hereby waives the site plan requirement and that a building permit and stamped plans be submitted to the Town Building Inspector for approval

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| On the Motion: | Councilman A. Bax | Aye |
| | Councilman M. Marra | Aye |
| | Councilman E. Palmer | Aye |
| | Councilman R. Winkley | Abstain |
| | Supervisor S. Reiter | Aye |

Motion Carried 4-0-1

Green Space:

Dowd: I have a copy of the law and potential green spaces that are in the town in the Lewiston Estates S.D. If we are going to do it, we are going to inspect those properties that were given by a previous Board in lieu of a \$250 recreation fee per lot. They did not pay \$250 per lot nor did the developer provide a central green space area. At the time the intension might have been that it would a walking area etc. The Board was concerned about liability in the fact that there is overgrowth in some of the areas. It would cost us more to clean it up. The issue is to determine whether or not those areas are considered to be held essentially in public trust because of the manner in which they were acquired or if we can get ???? on the surplus. If they have to be considered in the public trust you would have to go to the State Leg. to get authority to sell that land. You can do that and they would probably grant it but it is this process that we are going to have deal with. I am trying to find out by asking someone in Albany and ask as to whether or not if we can and make a determination if it can be simply deemed surplus property. Then we will tackle the logistics of it.

Winkley asked what if there are property owners that do not want it sold and they brought their house with that....

Dowd said that is the logistics part of it. If we determine it can be considered surplus then it becomes an issue on how do you divide those properties and then how you offer them. If you wanted to abandon a highway or alley in the city you could just deem it abandon and there is no real expense and it just happens. Here we may have to go thru the process because there is different size lots, surveys etc. so we will have to get around those logistics. The other problem we may have is if 3 or 4 neighbors that do want to buy parcels and 1 or 2 that don't and they are right next to one another are we going to be confronted with land lock parcels or smaller pieces of town property. Those are logistic things that we are going to have to handle and actually get in touch with the neighbors once we decide we are going to undertake this.

Reiter: Some land was transferred as part of the golf course.

Dowd said that some of the land that the Town owned was sold to the golf course.

Reiter: So we have a precedence already.

Dowd: It was sold for \$18,000.

Reiter: In the last 10 years we were always going back there and cleaning it and it has cost us a lot more than \$250 a lot to take care of that property. It is a logistical

nightmare because even though supposedly we have access from road you can't really get in there.

Palmer: We have incurred liability when trees have fallen on someone's property.

Dowd stated that this is a problem that we have inherited and I think we can go and talk with different homeowners and it may work out to the extend that a large group of people who agree that they don't want it at all. Let us find out first if we can do it. Regarding the golf course portion and whether or not that issue should have been different for the council at that time of that transfer, I don't know. The time for anyone to objected to it as long past. I think with that parcel there may have been a sewer easement.

Reiter said there are sewer & drainage easements in most of that green space. There are also utilities there. I want to make clear to the public is that we are not selling green space at Joe Davis Park.

Engineering: Nothing.

Finance: It is budget time and we are doing well.

Public Hearing for Real Property Tax-Cap Override Law:

Reiter: We have to set a public hearing on the tax cap override law. This does not mean that we plan to raise taxes in any way, shape or form but it gives us an opportunity i.e. refuse cost doubled this year from \$35.00 per household to \$70.00. Also our workmen's comp insurance went from \$151,000 to \$238,000 so we have some increases that somehow, someway we are going to have to make up those differences. We need to set the public hearing tonight.

Dowd said he would have the copy of the proposed local law and because it is a local law it has to be adopted every year. I will have a copy of the proposed local law for the public at least ten days before the hearing.

Palmer MOVED to hold a Public Hearing on Monday, October 24, 2011 at 5:30 p.m. for the Real Property Tax-Cap Override Law. Seconded by Bax and carried 5-0.

Culvert Pipe/Creek Road:

Reiter: Mr. Zulkie sent me a letter regarding his culvert pipe on Creek Road. The Highway Supt. is working with the State. The State has offered to replace the pipes if we supply the pipes. We have to get a cost estimate together as to how many of these pipes have to be replaced along Creek Road and yours (Mr. Zulkie) will be a top priority.

MARRA:

Halloween Hours:

Marra MOVED that Halloween Hours are designated to be on October 31, 2011 from 4 p.m. to 7 p.m. in the Town. Seconded by Palmer and carried 5-0.

Softball Complex:

We have discussed at our Parks/Rec. meetings the possibility of creating a soft ball complex for the girls so they have the opportunity where they could have diamonds hopefully as nice as the diamonds over at Pletcher Rd. Parks/Rec. Director Mike Dashineau asked me to announce that we are going to do this at Kiwanis Park. There are 2 diamonds there that need some work etc. but hopefully in the next week or so....Highway Supt. Janese has agreed to assist the Parks Dept. with the work. Weather permitting it could start within the next week or so and hopefully be done within a month. We are giving the girls a softball complex.

PALMER:

The Planning Bd. recommends approval of the subdivision application of Carmen & Celia Coney for a one-lot located on 2027 Langdon Road SBL##75.00-2-42 with the condition that the flood plan be delineated prior to the issuance of a building permit.
Palmer MOVED to accept the Neg Dec for the one-lot subdivision for the property at 2027 Langdon Road SBL75.00-2-42 owned by Carmen & Celia Coney. Seconded by Marra and carried 5-0.

Palmer MOVED for approval for a one-lot subdivision with the condition that the flood plan be delineated at the property at 2027 Langdon Road SBL#75.00-2-42. Seconded by Bax and carried 5-0.

WINKLEY:

1. I will be meeting with the fire departments for contractual talks with our finance officer on Monday at 5:00 p.m. here to discuss future contracts.

BAX:

1. I would like to thank the Board for appointing me as the Town's representative to the LOOW RAB Cmte. The next meeting is Oct. 3, 2011 at 7:00 p.m. Please call me & I will give you the meeting place.
2. WPCC: Mr. Ritter has asked that we bring Kevin Norwich, an operator trainee hourly wage up to \$22.71 per hour per Union contract.

Marra MOVED to bring Kevin Norwich to \$22.71 per hour per Union contract
7.1.2. Seconded by Marra and carried 5-0.

Marra MOVED to go into Executive Session for personnel issues. Seconded by Bax and carried 5-0.

Time: 6:45 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session September 26, 2011 6:50 p.m.

Present: Sup. S. Reiter; Council Members Bax, Marra, Palmer & Winkley; Atty. M. Dowd; Atty. M. Davis & Town Clerk C. Brandon.

Issues Discussed:

1. Police Issues/Recent Incident
2. Dog License

Winkley MOVED to exit Executive Session and reconvene. Seconded by Marra and carried 5-0.

Time: 7:25 p.m.

Bax MOVED that the clerk contact Mrs. S. Frasca of 5848 Buffalo Street, Sanborn and discuss her recent claim for water damage. Seconded by Winkley and carried 5-0.

Motion to adjourn made by Winkley and seconded by Bax and carried 5-0.

Time: 7:28 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

