

**PRESENT:** Supervisor Reiter; Councilmembers Bax, Marra, Palmer, Winkley; Deputy Sup. Catlin, WWTP Chief Oper. Ritter; Building Inspector Masters; Police Chief Salada; Highway Supt. Janese; Town Attorneys Dowd and Davis; Engineer Smith; 8 residents; 1 Press and Clerk Donna Garfinkel

Supervisor opened meeting followed by Pledge of Allegiance and a moment of silent reflection.

#### APPROVAL OF AGENDA

**Winkley MOVED to approve Agenda as submitted, Seconded by Bax and Carried 5 - 0.**

#### MR. PATRICK BROWN – 2011 AUDIT UPDATE

Supervisor introduced Mr. Brown - Brown & Co., Town Auditor. Brown thanked the Board for using Brown & Co. as their auditors. Brown distributed 2011 Audit Report.

The Town received an unqualified audit opinion for the year ended 12/31/2011 with no significant exceptions, findings, errors, omissions. It means the Town's financial statements are in compliance with generally accepted and government accounting principles and reporting requirements. An unqualified opinion is the desired and highest opinion form for financial audits.

The Town's total financial position of the operating funds improved compared to budget operating at a \$745,433 favorable budget variance and decreased by \$57,644 when compared to 2010 with all funds operating within budget except for Sanitation, Water Pollution Control Center (SS1) and Water Fund which were \$90,108, \$63,763 and \$97,775 unfavorable budget variances respectfully. The Town is in stable and good financial condition with all operating funds having adequate fund surpluses except for Sanitation, Water Pollution Control Center (SS1) and Water Fund. All of the Town's funds have strong unrestricted fund balances of over 10% of 2012 budget except for Sanitation (deficit), WWTP (SS1) (deficit) and Water fund is about .6%. Undesignated fund balances are just about where you want to have and maintain them having adequate surplus fund balances to address unforeseen/emergency situations. The surpluses are reflective of prudent, conservative and realistic budget estimates of revenues and expenses.

As a percentage of their respective 2012 budget;

General Town Wide Fund is 29.2%

General Part Town Fund is 26.8%

Fire Fund is 11.8%

Lighting Fund is 94.6%

Master Sewer Fund (SS2) is 113.5%

South Sewer (SS3) is about 85.0%

Sanitation, WWTP and Water Fund have some work to do to get up to the desired 10%.

Personnel costs for the Town increased \$89,949 or 2.1% from \$4,230,823 in 2010 to \$4,320,722 for 2011. Employee benefit expenses for 2011 were \$2,308,389 vs. 2010 of \$1,864,531 an increase of \$443,858 which is 23.8% increase from 2010 to 2011 for employee benefits. Personnel and related employee benefits represent approximately 43% of the town's budget.

For 2012 budget, the Town was able to barely remain under the State prop tax cap by .01%. The Town's debt is above average given the 2012 borrowing; future borrowing must be closely scrutinized and only as absolutely required.

The 2013 budget will be challenging as revenues are pretty stagnate/fixed and dependent on sales tax and expenses rise with many contractual items and debt service (as with all local governments in County). The Board will need to closely analyze expenses for all departments, especially employee benefits/personnel costs which make up most of the budget, as the Town will need to comply with State property tax cap.

Fees for all departments must be examined and should at least be equal to surrounding Towns to help offset costs. If fees are too low, the cost of the department is being subsidized by others.

In regards to the Sanitation budget. In 2012 the Town paid \$70/household, resident paid \$23; therefore running about \$47 short. Looking at the existing number of households, it is projected the Town will be short anywhere from \$214,000 - \$260,000. This fund has no other source of revenue to pay the contractual item other than taxes.

Brown said the Board may need to override the 2%. This is done by resolution. These are contractual items and there may be no choice.

Winkley said Fire Depts., in the last four-year contract, took less money than in the past ten years.

Dowd said the Board would need to vote to override the 2% cap by October. This is designed to try and force Boards to do everything they can.

Bax said Lewiston will fall on the sword so the Governor doesn't have to.

Johnson pointed out that in the last 5-years budget code H-99, the signing bonus from the Power Authority, was used to buy down the refuse tax. This fund is now gone.

The STAR program is reflected on resident's school tax. The school capped it at 2%, so people are paying on the assessed value of their property \$50 - \$100 more for 2012 - 2013. Board members may be called upon to explain this. They will do it again next year.

Coming 2013, it is already known the contractual agreements, in two or three categories, have increased. The Board might have to override the 2% cap, and residents need to know it is under contractual agreements, and has nothing to do with a Town tax.

The Town had a Town tax back in 2003, but has since been eliminated.

Town Board thanked Mr. Brown.

#### APPROVAL OF ABSTRACT

**Palmer MOVED to approve Regular Abstract of Claims numbered 3204 to 3589, and recommend payment in the amount of \$325,181.44, plus a Post-Audit of \$138,625.71, Seconded by Marra and Carried 5 - 0.**

#### ADVERTISE FOR BIDS

The Water Pollution Control Center would like to advertise for bids for the necessary electrical upgrades at the Plant, advertising the week of September 10<sup>th</sup>.

**Bax MOVED to advertise for bids for electrical upgrades at the Plant, Seconded by Winkley and Carried 5 - 0.**

#### NOISE ORDINANCE

Dowd and Chief Salada made changes, distributed to Board members, now a Public Hearing needs to be scheduled.

**Bax MOVED to hold a Public Hearing to adopt the new Noise Ordinance, on October 22, 2012 at 5:30 p.m., Seconded by Winkley and Carried 5 - 0.**

#### 284 AGREEMENT

Bax is working with Janese and Johnson on funding for paving of Dickersonville and Bridgeman Roads.

#### MAWHINEY MINE

Dowd has discussed this issue with the Board. Dowd contacted the operator of the Mawhiney Mine and they will submit a check. The court ordered a formal order be prepared and then circulated to Judge Boniello for signature.

Palmer asked if there was direction for the Town Clerk, as far as what account the check should be deposited in? Dowd does not know. Masters said it is under the Town Clerk's purview.

Dowd said this went to court. The Town Mining Law provided that a fee, x-amount of dollars be charged; each year of permit. The Town can't do that, it is essential a tax and can't be done. The Town can charge appropriate fees that are directly related to inspections of the property. The law the Town has was flawed and that is why it went through the challenge. So they have been allowed to finish the pond that they have started. Once they reach the end, then would come back and reapply if they want to expand. They paid a \$15,000 annual fee, which could have been challenged. But they agreed to let that go, and we wouldn't charge them last year's fee.

New mining / excavation laws specifically say the Town may charge fees that are related to inspections. The new law, called A Mining Overlay District, as it stands, states there is no mining anywhere in the Town, unless the Town Board agrees to rezone an area for that purpose.

Bax is concerned with the neighbors concerns regarding traffic, dust, roadway entering the mine, etc.

Dowd would believe if they caused road damage or had a spill the Town would charge Mawhiney.

Masters would like to see what happened in the court proceedings, he doesn't know what part of the mining law is or isn't applicable. Is the required 200-feet of asphalt from Ridge Road to the Pond applicable or not? This was never installed. Winkley, Bax and Reiter said the asphalt is there now. Bax believes the only thing that was designated to be illegal was the tipping fee and annual fee for operation.

Bax asked if their permit expires every two years. Dowd said the court proceedings resolved, they are permitted to complete the excavation of the mine that was authorized by the DEC. They can go no further. Whether they have to come back and renew the permit with the Town or not is in the code. The Town couldn't charge the \$15,000 annual fee. The Town might be able to charge an inspection fee.

Masters and Bax said the law calls for 1/2 the application fee on an annual basis. Does this apply to Mawhiney? Masters said this is the same issue for every building permit.

#### GENERATORS – POLICE STATION

Smith is awaiting approval from the Education Department. The Contract has procured as required by insurance and shop drawings have been submitted for approval. Job should start in 3 – 4 weeks.

#### LEGACY DRIVE

Dowd and Masters are working on the application. Renewal fees need to be paid by the developer for the inspecting and road dedications.

#### TOWN PARCEL / FISH CREEK

Town to contact abutting residents to excess piece of property, to see if they are interested in purchasing. The Niagara Falls County Club also may be interested. The Town would have to maintain a sewer easement. A formal appraisal is due tomorrow.

#### RABY TOWER

Since discussion at last Board meeting no one has come in to apply. Dowd said the Agriculture & Markets Law provides a model streamline Site Plan Review process for farming operations. They still have to follow the Town process.

#### STATUS UPDATE – JANESE

776 Michele Court – Green-space issue. Owner said they will contact Supervisor Reiter.

5376 Annover Drive – Drainage issue in the rear of property. Town installed the drainage and there has been a failure problem. The Town will excavate a bit to see what the problem is, if it is what it is claimed to be, the Town will fix.

5322 Elm Drive – This is a catch basin issue. Highway Dept. has taken elevation and it is typical to what is installed in the entire subdivision. It seems the lots are being graded to the catch basins. Janese is reluctant to fix one, unless all in the subdivision are raised.

1897 Swann Road – Janese will meet with Masters regarding culvert pipe.

Topsoil issue – Elm Drive – Janese is waiting for cooler weather.

#### PEACE OFFICER SCHOOL – Winkley

Winkley requested the approval of Dave Sherriff to attend Peace Officer school at Niagara University from October 6 – November 28<sup>th</sup>. Cost to be \$250 with funds from A3510.400.

**Winkley MOVED to sponsor David Sherriff to attend Peace Officer School at Niagara University, Oct 6<sup>th</sup> – Nov. 28<sup>th</sup> with funds from A3510.400, Seconded by Marra and Carried 5 – 0.**

**Marra MOVED to adjourn, Seconded by Bax and Carried 5 – 0.** (6:45 p.m.)

Respectfully Submitted and Transcribed by,

Donna Garfinkel