

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorneys Dowd and Davis; WWTP Chief Oper. Ritter; Building Inspector Masters, Highway Superintendent Janese; Town Engineer Smith, Police Chief Salada; Finance Officer Johnson; 3 Press; Approximately 53 Residents and Clerk Donna Garfinkel

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

TWO-MINUTE STATEMENT BY RESIDENTS

Supervisor asked if any resident wished to address the Board.

Craggs, Todd – 1974 Langdon Road – Craggs spoke on the Quasar lagoon proposed for Porter Center Road. This is a 6-million gallon waste lagoon. This is in no favor for those in the area. Craggs can't believe anyone wants this.

Reiter explained that the Town Board has not seen this application. There will be a public hearing at a later date to welcome comments. It is improper for the Board to discuss this.

Lauer, Evelyn – 4300 Williams Road – Lauer read the following statement: Quasar Energy Group wants to build a cesspool lagoon in the Town of Lewiston, almost directly in my backyard. This cesspool would hold millions of gallons of something they term "equate" but please do not be confused. "Equate" is nothing more than human waste, animal waste and restaurant by-product waste. In other words a fancy name for sludge or sewage.

The residents of the Town of Lewiston already tolerate Modern and CWM; does this mean we have to be host for every company that wants to store waste in whatever way they choose in our town? Who knows what types of biohazards the human waste in this open pit will produce; what type of pests or insects could be drawn to the animal or restaurant waste in this cesspool. There would also be an increase in the truck traffic above and beyond what we already contend with because of Modern and CWM.

The contents of this cesspool are NOT the same as the liquid fertilizer that farmers spread on their crops. According to Quasar's own website, when this human and animal waste are spread it could take up to 38-months before the crops could be used for human consumption. Visitors to that website can view photos of the existing lagoons in Ohio, which look to be miles away from any farms. This Lewiston pit is being proposed in too populated an area, where prevailing winds will most certainly blow any odors directly to the resident of Williams Road and surrounding homes. I enjoy opening my windows in the summer and using my backyard; will I ever be able to do that again if you allow this sewage pit?

The Town of Lewiston's website states, "Agriculture, development standards and community vision all strive to preserve and enhance the Town's rural character." Additionally, I must also implore to you that the quality of life of the residents MUST be taken into consideration. I vehemently oppose this cesspool lagoon being built in my backyard and I DO NOT want my quality of life or my property value impacted by this absentee owner trying to force his waste business into our rural residential homelands.

Please do not let Quasar Energy Group build their cesspool lagoon in our backyards.

Testerman – 4187 Dickersonville Road – Testerman agrees totally with Ms. Lauer. The springs from the proposed Quasar lagoon will run off into his yard/fields. Is it safe?

Jolbert – 4235 Williams Road – Jolbert feels that Niagara County Health Dept. pushed this through. Jolbert asks the Town Board and the Planning Board to remember they represent the residents. This project has been stopped in two other communities. The Board should consider funds to defend the residents against this.

Brown – 4510 Porter Center Road – Brown would like to thank the Highway Dept. for the great job they have done on Porter Center Road. The Board should consider making Porter Center Road a town road.

In regards to Quasar, there is already enough truck traffic in the Town, we do not need more.

Kraft – 1535 Swann Road – Kraft agrees with what all others have said. There is a parasite called the round worm that invades the body. Animals can carry this parasite. This parasite might be in this lagoon.

James – 4370 Williams Road – Quasar is a proposed small landfill of its own. Residents old and new do not want this lagoon. This project is located within a square-mile of properties. It is located in part of an I-1 zoned area.

The product has to be on the fields for 38 months before planting of consumption veggies can be planted. The Quasar plant in Ohio does have violations. Economically, neighbor's property will lose value. James asks the Board to consider the residents, and remember who they represent.

Feldman – 806 the Circle – Feldman requests the Board fund an attorney to assist the residents in fighting this down. Feldman does not understand why there is a debate, the residents do not want this. This will affect Lewiston, not the County so fund the effort to not have this here.

Witryol, Amy – 4726 Lower River Road – Witryol read the following statement: It's clear from newspaper reports that the health, science and legal experts stopped work, and that, in 4 years, Lewiston has not contributed to its own defense against a new toxic waste dump, proposed for construction about a mile from our public schools.

Michael Gerrard, lead attorney who defeated the CECOS toxic waste landfill application, is the same nationally renowned legal expert who recommended the lead attorney working for Lewiston's defense today. Gerrard has also helped your team on CWM in recent years.

For the past seven years, in their capacity as Village or Town Board members, Mr. Palmer, Mr. Bax, Mr. Winkley and Mr. Marra have fully supported the partnership with the County. This applies to Mr. Johnson as well with respect to his prior Board service.

Like the press, any time during the past 7 years the Board has had ample opportunity to pick up the phone and contact the experts, or contact the Director of the County Health Department for information about the experts work. For 7 years, you have had easy access to the experts' work which is on file at both the Town office and the Village office.

After 7 years, and just as hearings are expected to begin, it is bewildering that any board member could have questions or want to suddenly change the practice they have historically supported. We expect the Board would never conceal from the public any change in the historical partnership.

It's like having a good ambulance service for seven years, not paying the bill in 4 years, and then refusing payment and halting the ambulance while someone is lying injured in the middle of the road. It's not for lack of an invoice. It's like voting against crime and refusing to fund the police.

In a Town that spent \$100,000 on a failed Rec. Center concept, the Board's delay in defending us against toxic waste dumping for the next 40 years is not for lack of money.

The intent of the state hazardous waste assessment was made very clear, and yet this board has not spent even a fraction of those funds for experts to protect us from a new CWM toxic waste landfill.

This Board receives monthly reports from the DEC which list documents quite obviously requiring expert review in preparation for upcoming state hearings, but which have been backlogged, *for months*, because of the Town's failure to live up to its promise.

As reported in the paper, a Town check to the County would put the experts back on the clock, immediately. Each day of delay has already diminished the Town's own defense.

I won't review the historical action of either the Supervisor or Town attorney who had recused himself on this matter, unless necessary after tonight's meeting.

However, you may recall I publicly thanked this Board at your April meeting for the expert groundwater analysis identifying problems and migration of chemicals like Benzene and TCE a mile from school property.

I have every confidence that Mr. Bax and Mr. Palmer are capable of working with the County to get the experts back on the clock before the end of the day tomorrow, provided the Town authorizes \$50,000 for the \$18,000 past due balance with the remainder for the customary escrow.

Given their past initiative and support of the County partnership, and the fact they will both serve on the Board after Jan. 1st, tonight I ask you authorize Mr. Palmer and Mr. Bax to jointly resolve any issues and release up to \$50,000 to put the experts back to work. It shouldn't take even 24 hours.

Soda, Francis – 4221 McKoon Avenue – Soda read the following statement: Mr. Supervisor and members of the Town Board: My name is Frank Soda and I am a life-long resident of Niagara Falls.

From 1986 to 1989 and for six months in 1998 I was a member of the Niagara Falls City Council. From 1986 to 1991, I served on the Love Canal Area Revitalization Agency. From 1991 to 1993, I was a member of Occidental Petroleum Corporation's Community Advisory Panel as well as serving on its steering committee.

These experiences have had a profound effect in shaping my perspective of the environmental challenges facing Niagara County and their impact on the quality of life on our communities.

It is from these experiences that I strongly encourage the Town Board to actively and aggressively oppose the proposed expansion of chemical waste disposal at the CWM facility. It is from my experience on the Niagara Falls City Council that I learned how effective a municipality can be if it dedicates itself to pursuing the goal of environmental security.

In early 1987, CECOS International had an application pending with the New York State DEC for the construction of a sixth hazardous waste landfill to be located in Niagara Falls and the Town of Niagara.

It was widely accepted that the CECOS application would be approved by DEC and so the communities anxiously awaited the permitting process. However, citizen opposition began to intensify.

In March 1987, the Niagara Falls City Council unanimously adopted a resolution opposing expansion of hazardous waste dumping at the CECOS facility in spite of the DEC approval of the application for the construction of a 30-foot above-ground landfill.

However, it was quite evident to those of us on the City Council that our technological, scientific, and legal capabilities were very limited in comparison to our corporate adversary. Even a coalition of local governmental entities and 16 area environmental groups lacked the expertise necessary to successfully stop the CECOS effort to expand.

In April 1987, the City Council appropriated \$200,000 and hired the New York City law firm of Berle, Kass & Case to provide legal advice as we prepared for the permit hearings. Attorney Michael B. Gerrard was retained to assemble the technical and scientific experts who would provide the data for our position. The resolve of the City Council even prompted Gov. Mario Cuomo to lend his special counsel, Fabian Palomino, as an advisor to the coalition of environmental groups opposed to expansion. Later that summer, the state legislature passed a law that required the expansion of hazardous waste landfills to be reviewed by a state siting board.

Over the next year, our legal counsel worked diligently with his team of technical and scientific experts. Eventually, in March 1988, the siting board hearings convened with overflow crowds of 300 to 400 citizens attending each session. The voices of the City Council were joined in their opposition to expansion by the supervisors of the towns of Lewiston and Niagara; a member of

the City Council of Niagara Falls, Ontario; and Assemblyman Joseph Pillittere and State Senator John Daly.

The legal fight continued through the remainder of 1988. In January 1989, CECOS made a corporate decision to stop accepting hazardous waste. Between August 1989 and February 1990, Administrative Law Judge Andrew Pearlstein sided with CECOS and twice recommended expansion. Nevertheless, in March 1990 both the state siting board and DEC Commissioner Thomas Jorling ruled against expansion. CECOS had reached its capacity for hazardous waste disposal a year earlier and was making provisions to close its landfill.

These struggles against the hazardous waste disposal industry are never easy or inexpensive. However, I must ask you what is the value you place on the environmental security of your citizens?

Fideli, April – President of RRG – Fideli read the following statement: We were surprised and confused to read in the newspaper after the county legislature meeting that Lewiston has not sent escrow of \$50,000 to county, which as a result, halted the work of health and science and legal experts.

It doesn't really matter why at this point, but we are looking to the Lewiston Board to get the experts back on the clock immediately, which the newspapers quoted county officials as saying could happen if Lewiston sends a check.

Legislative memos indicate a primary purpose of the hazardous waste assessment is environmental protection from the siting of a hazardous waste facility, which in our case, is CWM. It is important the Town release a small portion of that assessment, \$50,000 now, and additionally budget the same amount for 2014 since we expect hearings will be in full swing at that time.

This is a once-in-30 year chance to end toxic waste dumping in this community, at a facility so close to our schools.

Mr. Johnson, Mr. Palmer and Mr. Bax were members of the Lewiston Town Board and expressed full support when the County partnership was in place and functioning.

Because hearings are expected to start soon, this is the worst possible time to be tinkering with the County partnership or delaying payment for any reason.

There is a growing backlog of technical documents which require review by experts to be reasonably prepared for hearings, which could start within 30 days.

Whatever the permitting and siting outcome, the experts have, and will continue to move DEC toward the safest regulation possible, instead of poorly enforced minimums.

The wind is at the back of Lewiston residents because of the state's conclusion there is no need to site additional toxic waste disposal capacity in New York.

But we cannot let DEC allow any slack in permit conditions for the management of toxic waste already at the site, or allow any more migration of PCBs and other contaminants into the community.

The fact that it's taken CWM over 10 years just to complete its application, just to begin the decision-making process on the application, is a sign that CWM is a complex and troubled facility. That's even more reason to want adequate resources for the experts to protect us.

It is clear that the responsibility for payments belongs to Lewiston right now. We ask that Lewiston honor its longstanding commitment. It is Lewiston's turn, and now is well past the time for debate or further delay. Please put the experts back to work to defend us.

Thank you.

Sitek, Greg – Upper Mountain Fire Company President – Sitek read the following statement: I am a taxpayer, a firefighter, an EMT, and President of Upper Mountain Fire Company. I am her

representing Upper Mt. Fire Company to discuss Resolution 2013-17, which was adopted by the Town Board on October 7 by a unanimous vote.

That resolution asks the state government to compel the New York Power Authority to help fund the town's fire and police services.

As emergency responders, the first lesson we are taught about approaching ANY situation is to do a complete scene size-up, also known as a 360. The purpose of a 360 is to gather as much information as possible before hastily rushing into a situation.

It is done not only for our safety, but the safety of everyone involved.

You see, even when acting with the best intentions, moving forward without having all the facts can cause unintended damage. We are concerned that the Town Board didn't do a 360 before adopting this resolution. As a result, Upper Mt. Fire Co., and other fire companies that respond to calls on New York Power Authority property were taken by complete surprise when we learned of the resolution AFTER it was passed.

Upper Mt. Fire Co. was not contacted by ANY MEMBER of the Town Board regarding this resolution, or to ascertain what our needs are. Yet our name, "Upper Mountain Fire Company" appears in 5 of the 12 arguments for funding stated in this resolution.

It's nice when someone asks how they can help. Unfortunately, it didn't happen here. As a result, this resolution misrepresents some facts with respect to Upper Mt. Fire Co. preparedness and response, as well as our relationship with the New York Power Authority.

Two obvious examples: FIRST, the resolution references a 2012 turbine fire to which we responded at NYPA. It was, in fact, a transformer fire. There's a big difference. The resolution also inaccurately states that we fought a fire that in fact, had already been extinguished by the time the first engine arrived.

SECONDLY, the resolution also says Upper Mountain has responsibility for providing Rural/Metro ambulance services. Rural/Metro DOES NOT provide ambulance services to the Town of Lewiston. Upper Mountain and other volunteer fire companies do. For reference, in 2012, Upper Mountain answered 1,032 calls for emergency medical services.

In 2007, when NYPA was barred from disbursing funds to the fire companies, UMF and all the responding agencies started meeting with them to develop and present a 10-year plan to address our needs. In fact, over the past several years we have enjoyed a constructive working relationship with the local Power Authority representatives, who have helped us in planning and staging exercises for emergency situations that could occur on their property.

Upper Mountain has needs for equipment that our current town contract will NEVER cover. Like you, we would welcome additional support for emergency responders from the Power Authority, just as we would welcome support from Mount St. Mary's Hospital or the Lewiston-Queenston Bridge – two other entities that require, but don't contribute to our fire protection and ambulance services.

If the town is to ask the state government to compel NYPA to provide that support, we believe Upper Mountain and the other responding agencies should be included in the process to ensure the accuracy of the ask, and the effective deployment of any equipment received as a result.

Until this occurs, we ask that you rescind Resolution 2013-17.

Upper Mountain Fire Company members volunteer our time to respond to emergencies 24/7/365, at one of the busiest volunteer fire companies in the entire county. We do it to help people we don't even know in their most desperate times.

In the future, if you want to talk about something this important, I would invite you to pick-up the phone and contact myself or Chief Leven. We would be happy to work with you to secure additional equipment to help to meet the town's emergency response needs.

Glasgow, Paulette – 836 The Circle – Glasgow read the following statement: Last July, I stood before this Town Board and asked you, Mr. Winkley; you, Mr. Bax; you, Mr. Marra and you, Mr. Palmer the following: when are you going to say enough? When is enough going to be enough? When are you going to tell Mr. Reiter no more? When is enough enough? That night as you often did and do, you ignored me. And four months ago because you wouldn't do your duty, the FBI, the Attorney General and the State Comptroller did it for you.

There's a concept within our justice system that you are innocent until proven guilty except when the accused publicly admits to his wrongdoing and that's exactly what happened the day after Lewiston was visited by federal and state agents. To a Buffalo News reporter on June 7th, the Supervisor admitted to all the allegations he was being accused of. Last month the Supervisors admissions of misuse were implied and restated by the county chair of the Supervisors party and these admissions have yet to be disputed.

These past few months individuals have talked about ethics, transparency and open government. Yet this Town Board continues to ignore addressing this issue and has taken no action. The press has asked Town Board members to comment on the ongoing investigation and they have been stone walled by Town Board members refusing to comment or by saying the matter is closed. Well gentlemen the matter isn't closed because you have yet to report to the public, and once again the nature and outcome of the investigation will remain hidden from the public and the secrecy continues.

Tonight, as a Lewiston resident, I ask you, Mr. Winkley; you, Mr. Bax; you, Mr. Marra and you, Mr. Palmer, why do we have to wait months before our government is cleaned up? Why do we have to wait for ethic and transparency to return? When is enough, enough? If you are men of your word, you shouldn't only talk the talk but walk the talk and put to an end this sad chapter of Lewiston history. As one of the senior members of this board who has publicly stated they were going to end investigations and secrecy, I'm asking you, Mr. Palmer to make the motion asking for the resignation of Steven L. Reiter.

APPROVAL OF AGENDA

Reiter asked if any Board member wishes to add to the agenda. Bax – Engineering Proposal for the Muck Land pump; Marra – Executive session to discuss Parks & Recreation personnel; Reiter – WWTP union contract.

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

APPROVAL OF MINUTES

Marra MOVED to approve RTBM – 9/23/2013; Budget Meeting – 9/26/2013; Worksession – 10/07/2013, Seconded by Palmer and Carried 5 – 0.

POST AUDIT PAYMENT

Bax MOVED to approve the following Post Audits Payments: Home Depot - \$583.74; Sam's Club - \$782.27; Key Bank - \$435.81; DeLage Landen - \$121.91; Leaf - \$455.80; Mountain Glacier LLC - \$63.69, Seconded by Marra and Carried 5 – 0.

NEW BUSINESS

Items 1 – 6 - Drainage work requests. Bax requests tabling these till he and Highway Sup. Janese go to the properties on Thursday. Bax will report back at the Town Board Worksession of Nov. 25th. (McKenzie, Deering, Latko, Ellerington, Rivers, Rice)
Item 7 – Judge Sheeran – Carry-over vacation days Court Clerk

Palmer MOVED to approve Mary Kinney to carry over unused vacation time, to be used the 1st quarter of 2014, Seconded by Marra and Carried 5 – 0.

Item 8 – Town Clerk / Water Department Fund Transfer

Winkley MOVED the transfer of funds from Contingency A1990.04000 in the amount of \$900 to account A1410.20 and \$600 to account A1620.200 to cover the unexpected replacement of two (2) computers, Seconded by Bax and Carried 5 – 0.

Winkley MOVED to transfer funds in the amount of \$3000 from SW1-8340.400 to SW1-8310.400 to cover shortage and utility bills for the remainder of the year, Seconded by Bax and Carried 5 – 0.

SUPERVISOR REITER

LEGAL

Memorandum of Understanding for Riverwalk residents regarding drainage should be signed today.

ENGINEERING – Sanborn Sanitary Sewer change order

Smith updates the Board on a necessary change order. The State is allowing the Town to open cut Route 31.

Palmer MOVED to approve the change order in the amount of \$29,636.00, Seconded by Marra and Carried 5 – 0.

Designate Halloween hours

Marra MOVED to approve the hours of 4 pm – 8pm for Halloween on October 31, 2013, Seconded by Palmer and Carried 5 – 0.

HIGHWAY – Snow & Ice Contract

Bax MOVED to approve, subject to attorney approval the 2014 – 2015 State Dept. of Transportation Snow & Ice Contract, Seconded by Marra and Carried 5 – 0.

Appointment to Assessment Review Board – no discussion.

FINANCE

Johnson distributed the 2012 Final Audit to the Board.

Johnson requested the Board schedule the 2014 Budget public hearing.

Bax MOVED to schedule a Public Hearing on the 2014 Budget for November 7, 2013 at 6:00 pm, Seconded by Marra and Carried 5 – 0.

Johnson would like to meet with department heads and the Board prior to the public hearing.

Marra MOVED to schedule a Budget Worksession for November 4, 2013 at 4:00 pm for any Department Head who wishes to meet with the Board, Seconded by Palmer and Carried 5 – 0.

COUNCILMAN BAX

Ritter, Chief Operator at the WWTP is requesting approval from the Board for the Niagara Falls Water Board to act on the Towns behalf for chemical bids.

Bax MOVED to participate in a cooperative bid with the Niagara Falls Water Board for the 2014 Chemical Bid, Seconded by Marra and Carried 5 – 0.

Muck Pump

A Feasibility Study needs to be performed.

Bax MOVED that Nussbaumer & Clarke provide a proposal to prepare a feasibility study regarding the elimination or replacement of the Muck Pumps located on the Reservation between Chew Road and Bridgeman Road, Seconded by Marra and Carried 5 – 0.

Catlin will work with Smith on this.

COUNCILMAN MARRA

Marra announced the Family Ice Rink will open at Academy Park November 30th till January 26, 2014. The rink was used by 8,500 people last year. It is a successful project. Marra thanks Highway Sup. Janese and the Village for all the help in its construction.

HIGHWAY SUPERINTENDENT JANESE

In regards to Legacy Drive, Janese said the surface has lost oil. It will need to be sealed within the next 12-months.

In regards to County Club Trail, Janese said the curbs and catch basins are in need of being replaced. The amount of work and a scope of this project might need to be done.

Benches are being placed in the Sanborn area.

Janese requests a street light be placed at the entrance to the Highway Garage at Swann Road and Harold Road.

Palmer MOVED to forward the lighting request for Swann Road and Harold Road, Seconded by Marra and Carried 5 – 0.

Janese spoke of a new salt structure for the highway garage. A fabric covered structure will increase storage by 35%. The existing shed can be used to house all highway equipment. Funds are available in H-97.

COUNCILMAN PALMER

Palmer wishes to address the investigation of the Police Department. There are agreements in place that stop the Town Board from discussing the issue. This is a NYS Police investigation, which to date has resulted in one officer being fired and specific action was taken with the other officer.

Palmer commends the officers that performed the investigation.

COUNCILMAN WINKLEY

Winkley agrees with Palmer's statement. Winkley believes the current Police Chief would be upset if comments are made by the Town Board.

Supervisor read the upcoming meetings.

Bax MOVED to enter into Executive Session to discuss personnel, Seconded by Marra and Carried 5 – 0.

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorneys Dowd and Davis; Finance Officer Johnson; Recreation Director Dashineau

Discussion on CWM legal situation, Legacy Drive and Parks & Recreation personnel.

Palmer MOVED to exit Executive Session, Seconded by Winkley and Carried 5 – 0. (7:38 pm)

Palmer MOVED to approve payment of \$18,000 to the Niagara County Attorneys office for CWM legal work upon receipt of an invoice, Seconded by Winkley and Carried 5 – 0.

Palmer MOVED to approve \$100,000 Maintenance Bond for Legacy Drive, Town Highway Department indicates road & sewer okay after 7-years. Town may waive subdivision requirements upon good cause. All outstanding fees to be paid with bond, Seconded by Winkley and Carried 5 – 0.

Palmer MOVED to close the adjourn, Seconded by Winkley and Carried 5 – 0. (7:45 pm)

Respectfully Transcribed and Submitted by:

Donna Garfinkel
Deputy Town Clerk