

October 19, 2009

Town Board Worksession

5:30 PM

Present: Supervisor F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson & E. Palmer; Atty. J. Leone; Dep. Atty. R. Koryl; WPCC Admin. T. Lockhart; Eng. B. Lannon; Bldg. Insp. T. Masters; Clerk C. Schroeder; 2 press; 6 Residents

Excused: Alice DiRamio, Finance officer; Evan Elgin, Deputy Supervisor

The Supervisor called the worksession to order at 5:38 p.m. He asked if there were any additions to the agenda.

Agenda:

In addition to the agenda, Edwards said he had a voucher to present for payment.

Abstract:

**Bax MOVED to approve the Abstract of Claims, Numbered 3126 to 3451 and recommended payment in the amount of \$527,351.03, plus a post-audit of \$58,267.81. Seconded by Johnson and carried 5-0.**

Edwards presented a voucher payable to David Gross Contracting Corp. for Payment No. 1 in the amount of \$95,794.68 for Roof and HVAC Replacement at Town Hall, Contract No. 2009-01.

**Edwards MOVED payment of said voucher. Seconded by Johnson. Carried 5-0.**

**Edwards MOVED to authorize the Supervisor to sign the voucher approving payment to David Gross Contracting. Seconded by Johnson and carried 5-0.**

Proposed Local Law #2-2009: Attorney Leone said there was a question concerning the number of members on the Zoning Board of Appeals. Current Town Law says seven (7) members. State Law says five (5). Leone said he presented an amendment to the local law which establishes membership at five. Leone said he added some language that establishes two alternate member positions, in the event a member was unable to participate due to a conflict of interest or in the event of military obligation, employment or professional obligation, personal or family illness, scheduled vacation or other legitimate reasons. Also added was a section that contains training and attendance requirements which is now mandated by the state.

**Johnson MOVED to set a public hearing for 7:00 p.m., Nov. 9, 2009 on the amendment to Town Code, Chapter 30, Zoning, Article XXV, Zoning Board of Appeals. Seconded by Palmer and carried 5-0.**

Public Hearing – 2010 Budget: The Supervisor said this is the 5th on-time balanced budget with no town tax. The water tax has been reduced a slight amount. Overall, town taxes have been reduced from 2009 and significantly reduced since 2003. In 2003, taxes on a house assessed at \$100,000 were \$387.99. In 2010, that is reduced to \$350.07 on that same home. “Thanks to this Board and prior Boards, Lewiston has been working towards lowering taxes. That certainly stands in the face of the trends we’ve been seeing from the County.”

**Johnson MOVED to schedule a public hearing for the 2010 Budget on Thursday, November 5, 2009 at 7:00 p.m. Seconded by Bax and carried 5-0.** Newlin said the budget must be adopted by November 20, 2009.

Modern Response: Newlin said he placed before the Board a letter from Gary Smith in response to a directive from the Town Board. Due to vacation and unordinary sick leave among his staff, he was unable to meet the Board’s October 16 request. Hopefully, we will receive a written response by the end of the week.

Perry Court Drainage: Before starting with the Perry Court issue, Edwards said he would request to be removed as liaison to drainage and highway for the balance of the year. He would like to spend that time working with Councilman Bax on Parks and the

Library. He strongly suggested that whoever is appointed liaison for highway and drainage in 2010 not be given any further responsibilities than those two.

Edwards: Moving forward to this Perry Court, I don't think the intent of this Board was to play this issue out in the newspaper. My opinion is this issue doesn't have to do with a resident. It is a parcel of property. I have no political agenda here. I work for the people and I want all the residents to be treated the same. That's all I've done since I've been on this Board and that's what I intend to do for the balance of my responsibilities.

I did watch the last board meeting. Mr. Palmer, did you say there was definitely a safety concern? You have spoken to the folks since. Was this a safety issue? I heard drainage issue. I don't know where we're going with this.

Palmer: I believe it was a drainage issue. Cat tails and stuff growing out the back there indicate an excess amount of water. I went out there and checked the property. I think we're all in agreement that work was not done on private property. I have a memo from Dave Britton that confirms that. It wasn't even close to being on private property. It was quite a distance from it. I don't see what the big deal is here. I want to apologize to Mr. Deal for having his name publically drawn into this when it really was not a private issue here. This was a public issue. It's a shame.

Edwards: If there is an apology, I would join in with you on that. I never brought a name up. I brought this to light when we had four requests for drainage projects that there was a drainage system installed at the time of these developments and they have failed. What frustrated me – my question was to the engineers to go and see if infrastructure was properly installed by the developer. The engineering report reflects it was. There was a storm system put in by the developer with a catch basin. I thought it was a safety issue that the catch basin had failed and there was a handicapped child that was in harms way. That makes sense. Get in there and fix it... Why didn't we fix the catch basin? If you look at the drainage plan there is a 10-ft easement that is on the northern line of Lot 260 and 261. First and foremost, that should have been a gradual swale to that catch basin. That is not there. There's never been an issue as to whether it was private or public land. The way we do drainage projects in the town, we are responsible for cleaning the ditches; we're not responsible for putting pipe in. I had pipe installed on a parcel of property of mine last year that I paid for. The only reason we found out about this project was a load of topsoil dumped in lot 262. We do not landscape. Not once have we ever approved landscaping on a pipe project whether it was ours or private. Secondly, there is no public land here. The land that we encroached on is owned by the Seneca Nation. It was sold in 2007.

Palmer: This memo (9/10/09) from Dave Britton says the Town owns the green area adjacent to the rear property line.

Edwards: Since then our tax maps reflect that that green space that the town used to own was deeded to the Seneca Nation.

Palmer: There is some question if that triangular parcel at the rear of those lots still is green space.

Edwards: It's all supposed to be forever green in our agreement with the Seneca Nation. It's totally supposed to be green forever and they are supposed to upkeep it. So, if there's a drainage issue it's the Seneca's drainage issue not the Town of Lewiston's.

And, for the record, we do not have leftover pipe. In 2007, at the end of the Lewistowne drainage project, we bought \$50,000 worth of pipe for stock for projects throughout the town in that district. We would then always have a stockpile of pipe. As we sold it, we would put it back in stock. I truly don't believe that's happened in the last two years. I've been going thru the budget and the budget reflects that in 2007 we sold roughly \$30,000 worth of pipe. In 2008 & 2009, I think we're \$28,000 combined. We're half the sales with the worst rainy weather we've had in years. That being said, we have an issue here and it definitely has to be resolved. If one of our citizens was in harm's way we needed to fix the catch basin. There's no reason to run that pipe in the easterly

direction. There's only one reason that pipe was run in the easterly direction and that was to service Lot 260. I've had discussions with the adjacent neighbor, Mr. Debacle, about this green space. In turn, I've spoken to Tim (Masters); Tim has spoken to the Seneca Nation as well as Mr. Johnson. The Seneca Nation said they are going to address that. Mr. Debacle has been out there on his own time, digging his own ditch trying to drain that swamp. It's not right! That situation back there is not right but it is not our responsibility to drain it. I would like to hear from the Board.

Newlin: Mr. Lannon, have you looked at some of this... From everything we've seen, that land, whatever was public back there, was sold to the Seneca's. Do you know anything other than that? Are you aware of any public property or easements right where that pipe was put?

Lannon: The sketch that we attached to our memo was taken off the final plat map for Lewistowne Phase 9. At that point in time, that area in question was indeed Lewiston green space. Since then, that has been deeded over to the Seneca's as part of the golf course transaction.

Newlin: As far as you know it's private land back there?

Lannon: It's formerly green space and currently private.

Newlin: Mr. Masters, observing this, taking a look at the tax maps, easements, drainage -- is this public or private land? Secondly, are there any easements that exist where that pipe was installed?

Masters: The Tax Department shows the whole parcel back there behind those properties as owned by the Seneca Nation. We have a permanent Sanitary Sewer easement back in a ways. We have a 10' drainage easement on those lots. Those are the only two easements we have back there.

Newlin: So, the easements do not exist where the pipe was placed?

Masters: Correct.

Newlin: I've spoken to Kathy Walker, Chief Executive Officer of the Seneca Nation today. She tells me that to the best of her knowledge, the Seneca's were not aware nor requested this placing of pipe of their property. They are going to have some people out there in the next few days to verify that but she told me that that was not the case. So now, the Town has installed infrastructure on land the Town does not own nor does it seem like it was requested by the owner itself. I don't know a lot about drainage. I don't pretend to but my understanding of golf courses is they like to have the water headed towards them so they can offset their considerable water expenses. To me, this kind of work does not serve an interest of the Seneca's who own the property. It's moving the water potentially from one end of its perimeter to another end of its perimeter. Can you speculate who would benefit from such a job -- 200' of pipe placed on private land?

Palmer: Our residents would benefit from it. We're here to serve the taxpayers of this community. If there's a drainage issue, the Drainage Supt. has the right to go and correct that problem. That's his job.

Newlin: We have drainage problems all over the town as we see here every day. I have a list in my office -- which I would be happy to provide to you -- of 30 people who had drainage pipe put in that paid for it. Why did those people get bills?

Palmer: Those are drainage installations that are being done on the easement at the front of their house.

Newlin: They are being done on public property.

Palmer: We have other circumstances in which the Superintendent has fixed drainage problems at the rear of properties. It's not on their property – the installation of the pipe – whatever they needed to alleviate the situation was being done off property.

Newlin: You would agree there is no public property back there. There is no easement where this pipe was placed. We have a case here of Town crews using town dollars and town manpower putting in infrastructure on a piece of land where the owner did not ask for it to be done. That opens us up to liability. What happens if somebody got hurt back there? What happens if the Seneca's say we don't like that pipe being back there?

Palmer: Would you have even brought this issue up had the Highway Supt. not been running against you?

Newlin: Mr. Palmer, I didn't bring this up. That's an unfair accusation.

Palmer: I think it's pretty clear what's going on here. I hope the people watching this on television understand what's going on here because it's been so apparent the last two months that this is a personal attack against your opponent. We're using the taxpayer Town forum to do this and it's wrong. If you want to campaign, campaign on your own time but don't take up our time doing this.

Newlin: Mr. Palmer, I will then answer your accusations. First of all for the public this matter was brought to light, as Mr. Edwards said and Mr. Masters will testify by a private person who wondered why dirt was being placed on their front lawn. They didn't give permission to do it. That resident, I'm led to believe thought it was a private contractor who dumped dirt there by mistake. Mr. Masters goes out and finds that it was a town truck that put it there. This Board had not authorized this work. I'll remind you that the Drainage Dept. comes under the auspices and direction of this Board. Mr. Reiter has made claims in the newspaper that he can run the Drainage Dept. like he runs the Highway Dept. That is incorrect and I encourage anybody to contact the Association of Towns or our counsel here as to an opinion on that. He has specified rights and authority as Highway Supt. That does not extend into the Drainage Dept. Furthermore, Mr. Palmer, at the last meeting you said Mr. Reiter, and I don't hold you accountable for this and I'll take you for your word that Mr. Reiter said this, that that was extra pipe that was installed. Mr. Reiter does not have the power to determine what property is excess or extra. That is only the purview of this Board. I didn't start this controversy. What makes me even more worried frankly is Mr. Reiter has gone into the public record and says he does this all the time. Now, I would like to see a list from Mr. Reiter as to where he has taken it upon himself to extend public goods and services on private property in a case where we don't have a request for it. That is illegal by any measure. You cannot under Article 8, Section 1 of the New York State Constitution make gifts of public property to private entities. That is exactly what happened here. The fact that somebody's name got brought into it I'm sorry that happened but the political tenor of this Board has changed, not by members of my party and I don't hold you responsible for that either. In any event, we had the installation of public property on private grounds. The person who owns that property did not ask for the pipe to be installed there. We're in a real lurch here. What if the Seneca's say to remove that. Furthermore, I've gotten calls in my office from residents that say why did I pay for the pipe and the Seneca's did not. That's a fair question. I'm sorry that it came up at this time. I don't know any of the people who live in those lots that are surrounded there. Somebody I don't know called the Building Inspector and said why is there dirt on my property. It's not me who initiated this, Mr. Palmer.

Edwards: With all due respect to my good friend, Mr. Palmer, I brought this up. Myself only -- with no political ambition. It frustrated the hell out of me that we turned down four residents and we did this needless pipe job. Is that a valid concern or not?

Palmer: Whatever. Look at the calendar. You can pretty much figure out what is going on here.

Newlin: If Mr. Reiter hadn't done it this year, it wouldn't be an issue. He's the one who initiated this work... Why did Mr. Reiter wake up one morning and decide to put in

200' of pipe on private property owned by the Seneca's when the Seneca's did not ask for the project itself. That is a legitimate question.

Edwards: Let's go back to basics. The basics are a request comes before this Board that there is a drainage problem. We send professionals out there -- not politicians -- to assess the problem, come back to us and do we fund it or don't we. That didn't happen. If that would have happened we wouldn't be here today. Does the timing stink? Sure it stinks but the issue today is what do we do with this? There are three options here: 1) Take the pipe out, restore the catch basin and put in a correct swale; 2) The residents pay for it; or 3) Let it go and I have 26 requests that we refused this year; pay for all of them and I'll move it right now and this thing will go to bed. I'm not negotiating for anybody.

Bax: What were the 26?

Edwards: There are 26 requests in 2009 that this Town Board denied under the opinion of our Town Engineer because it was private land.

Johnson: I just want to remind everybody about the sale to the Seneca Nation. We sold them 17 acres of land. The residents abutting the property were complaining how garbage is built up in the back and things like that. When we first talked about selling this property to the Seneca nation, we asked them if they would make sure that during the construction phases, they would clean up back there. Although we put the pipe in on their property, maybe we can negotiate with them about the clean up back there in some type of a trade off rather than have to pull the pipe out.

Edwards: Mr. Masters is negotiating with them right now to clean that up.

Masters: They said they would do it when they finish the grass plan.

Johnson: Did they say anything about the pipe? Does the pipe benefit them too?

Newlin: That is a question we didn't get to. Who do you think this benefits, Mr. Masters?

Masters: It would benefit everybody around the catch basin.

Newlin: Not necessarily the Seneca's though. The Seneca's tell us they want all the water they can take. My guess is they are going to want the water to go back towards them.

Bax: I need some more education as to what was there was not working. Was it a result of developer error?

Edwards: I've heard conflicting stories. One was the catch basin had failed and a child could get hurt. There was a catch basin installed originally on that property. The drainage system was installed. Was it a safety issue? I don't know.

Bax: Assuming that it was a hazard. What would we have done?

Edwards: Fix it. Our crews do it everyday.

Bax: Even on private property?

Edwards: There's an easement there -- a north/south easement as well as an east/west easement. There would have been no reason to install pipe. Just fix the catch basin.

Bax: How much would it cost to tear it out?

Edwards: The pipe, probably as much as it cost to put it in.

Bax: If we send our crews to get an estimate it would cost to uncover the previously installed infrastructure and what it would take to repair that catch basin. Then we can

worry about what the Seneca's say in tandem with that. My thought is if there is a problem there that was originally there it needed to be fixed. Maybe it was fixed in the wrong way; however I don't know that what was installed is actually going to fix the problem that was there in the first place. I don't think any of us do. If the point is that what was there previously was satisfactory to fix the job, we are disagreeing with how it was procured and whether it is going to fix the problem. I think we have to go back to square one and take a look. I honestly think we should have Mr. Reiter go out and see what it would cost to fix the original problem.

Palmer: The problem has been fixed. It's just a question of whether it was a procedural problem.

Newlin: And what happens if the owners don't like it. Hopefully we'll hear back from the Seneca's this week as to what their intentions are – if they are happy with it and not going to make a big deal about it...

Bax: ... The only thing that is within our power to fix today is what is in our easement. The only thing we can fix is that catch basin and the broken thing that was covered over.

Palmer: It's been taken care of. The situation as it stands now has been taken care of as long as the owner of the property doesn't have an objection. I would like to think the intent here was to run along the easement to alleviate the problem. Whether it was done procedurally, or not; whether it involved Town Board approval or not; I'm sympathetic to what Mr. Edwards is saying about the importance of the Town Board getting involved in drainage issues and being able to have the ability to give approval for certain jobs and maybe perhaps disapproving others. In this particular case, I don't think there was any malice on the part of the people doing the installation out there. I think they were simply trying to correct a problem.

Edwards: If that were true and I want to believe that were true that would be one thing. If you look at the grade elevations around this catch basin it not only serviced Lots 261, it serviced 262, 263, 223 and one other home. By removing the drainage grate from that has compromised the drainage system. So, instead of accommodating five lots, we're now draining one – Lot 260. What do we do with the water in Lot 261, 262, 263 and 223? I think we altered an engineered system that we shouldn't have altered. Is there malice? I don't know. It's really exhausting that we're spending this much time on this. I can understand Councilman Palmer's frustration. And, if someone were to politicize this, which it has been politicized, and it has been in the paper. That was not the intent from the beginning. It was my frustration with development after development the taxpayers left holding the bag with incorrect drainage. That's what brought this to a head.

Bax: Was that incorrect?

Edwards: No, the engineering plan is here. It all seemed to work. Now, if there were complaints, they never came across this table.

Newlin: They didn't go to Mr. Masters either...nor engineering. They may have gone to Mr. Reiter but they didn't go to this Board.

Edwards: I would ask that we end the discussion with this. Let the Seneca Nation respond to us. In closing, if they are fine with it and they will accept an easement... Mr. Leone is that appropriate to take the easement off of those private parcels and put it on the Seneca's private parcel?

Leone: If the Seneca's will accept an easement, we certainly can draft an easement to allow for that pipe to be where it is.

Johnson: What about the catch basin? Can we put that back in service?

Edwards: In my opinion it altered a drainage system that didn't need to be altered... I would suggest -- leave it for a year and see what happens.

Newlin: I hope we can all agree unanimously and bi-partisanly that we should make sure proper procedure goes into effect here. Whatever the Highway Supt. does, if there are lawsuits we have to deal with it later. Hopefully, we'll hear back from the Seneca's this week as to what their intentions are. Mr. Palmer, despite your kind observations there were jobs, Fatima Shrine is one, where pipe was put in; not along a public front easement, but in the back where you have to get permission and you have to sell the pipe. That is something we have to stick to. Secondly, I hope we can all agree that it is only this Board that can declare what is excess or extra equipment... We'll address whatever mistakes were made and await the Seneca's response as to what they would like to have done there.

National Grid Legal Issues: Newlin said he distributed copies of the Power Credit Discount Agreement between and among the Town, NYPA and National Grid. This was approved in April 2007 by the Town Board. This is what really monetized that power and allowed us to enjoy the discounts we have, he said.

Newlin: I have said publically that we're very disappointed that National Grid did not give us any fore-warning about the rate drop. On Page 7 of this agreement, Section 4A they reference something about the Power Credit Year. When the agreement was signed, that commenced on September 1, 2007. Each Power Credit Year as referred in this contract begins on September 1. For each Power Credit Year after the first Power Credit Year, the Company (National Grid) shall complete this estimate and provide it to the Customer and NYPA as least sixty (60) days prior to the commencement of the Power Credit Year. Again, National Grid is supposed to supply the Town and the Power Authority with the estimate of what the new credit will be. They did not do that. They gave me and the Village Mayor an email (9/10) two days after the electric bills had been sent out. That email is a matter of public record. They were supposed to have supplied it, per this agreement, on July 1. Instead, we got it sometime in mid September. It's a clear abrogation of this agreement. The question that we're waiting to hear from our attorneys is -- can we seek justice in a court of law on this item. We'll get that opinion from them next week... Had this agreement been followed by National Grid we would have gotten this information in July. We could have adjusted any mistakes they had made. Already, Mr. Dax, our attorney in Albany, has identified about \$82,000 of credit they are shorting the Town currently...

Legal: Leone said he had two matters to address in executive session – personnel (potential retirement benefits) and contractual.

Payment to Yarussi Construction: Edwards said this was in reference to the reconstruction of the entrance to Thornwood Drive. Curbs were installed around the east island and the other around the west island. There are two separate vouchers each for the amount of \$7,000.00 to be paid under the same budge code, B-1990-0401.

Newlin said this is a \$14,000 project. He questioned whether it had to be bid out.

Leone: Yes. If it's \$5,000 and \$10,000 you have to get 3 verbal quotes. Between \$10,000 - \$20,000 you have to get 3 written quotes. That is your town policy.

Newlin: Is it okay to split a street up on east and west sides for curbs?

Palmer: There are two different islands.

Newlin: It would be one thing if one curb was done 6 months ago and the other 3 months ago. We have to be careful of skirting the direction as to when you have to put it out to public bid. Any recommendations, Mr. Leone?

Leone: At this juncture, you can sit on it or vote on it.

Newlin: I'm not going to support payment of this at this point.

Palmer: Who are we hurting by not paying this bill? It's the person who did the work. I don't think we have any choice but to pay this.

Newlin: I'm not voting to pay the bill. Do you want to take this to executive session to get legal advice of counsel? In my eyes, you can't divide a job like this to get underneath the \$10,000 threshold.

Edwards: It's not the fault of the contractor who performed the work. I don't know if there have been 3 prices. I'm in favor of paying the contractor and sending the procurement policy to the department head.

Newlin: Is anybody aware of 3 oral quotes taken for either of these jobs. We can wait a week. Somebody can ask Mr. Reiter if he got 3 oral quotes. We can get an opinion from the Engineer as to whether or not this can be bid separately or individually.

Sanborn Historical Society: At the last meeting, the Town Board gave approval to the Sanborn Historical Society for a new bathroom unit totaling \$31,000.00. At that time, the Board should have approved a \$3,000 purchase of a concrete pad upon which the convenience unit will rest. Funds will be budgeted from H-97 Power Authority Reserve.  
**Newlin MOVED for approval. Seconded by Bax and carried 5-0.**

Sanborn Library: Newlin said he has an estimate from Cook Moving Systems presented to him by the Library Director totaling \$20,736.00 for the relocation of library and office contents from the Sanborn Library prior to the installation of new carpeting. This work will be done by 8-men – 6-days – 432 man-hours. The proposal includes \$5,000 liability coverage. Newlin said he contacted the Cambria Town Supervisor who informally said he would help contribute and defray some of that cost. Newlin said this is a grant they would be giving the library to pursue the contract with the moving company.

**Newlin MOVED to award a grant to the Sanborn Pekin Free Library in the amount of \$20,736.00 as per proposal from Cook Moving Systems. Seconded by Bax and carried 5-0.**

Sanborn Fire Company Roster: The Fire Company submits for active membership the following individuals: Michael Devole and Laura Walker, a Town of Cambria resident.  
**Johnson MOVED for approval. Seconded by Bax and carried 5-0.**

Uniform Bid: The clerk noted that the current uniform contract expires at year-end. She is asking permission to go out to bid for an additional 3-year contract.

**Johnson MOVED to go out to bid for the uniform contract. Seconded by Johnson and carried 5-0.**

Shared Services Agreement with Niagara Wheatfield: Newlin said they are nearing completion of an agreement with the Niagara Wheatfield School District that will allow residents of the Town of Lewiston to make use of the pool and other recreational facilities at the school.

Grass Cutting – Taxes: Palmer referred to a request from the Building Inspector to place grass cutting fees totaling \$1,400 and administration fees totaling \$1,400 on 14 parcels on the 2010 Town and County Tax Roll.

**Palmer MOVED for approval. Seconded by Johnson and carried 5-0.**

Modification to Town Sewer Code: Leone said there's been a suggestion that the Town Sewer Code be amended to prevent the discharge of industrial waste into the sewer system. Leone said he's taken a look at the current town code. It creates some issues because the town currently has a permit process for industrial waste. Do we accept hospital waste, for instance? I understand what's on the table. It creates a lot of issues that need to be discussed thoroughly. Tim Lockhart should be heard as to what potential ramifications it may cause him.

Bax: The idea is to make it a violation of the Town Code for our WWTP to accept affluent from hazardous waste sites. The concept is good. I think we just have to arm wrestle with the language making sure it doesn't affect other areas of the code.

Edwards questioned town employees handing out a list of local sewer contractors to residents. I didn't think we did that anymore. He asked if these contractors were insured. "I was accused because of my affiliation with Plumbers and Steam Fitters Local 22 of trying to make this town a closed shop. Four of these contractors were my accusers here at Town Hall. It's upsetting to me. I was personally attacked over trying to do the right thing having some competent and insured contractors working in our town. If we are going to give a list, let's give a list or at least make sure they have insurance. There are a lot more qualified plumbers out there. If we are going to lists, I would appreciate that they have insurance and that we advertise that we're going to have a list."

Lockhart: Starting tomorrow, we will not be offering a list. We'll make a suggestion that the homeowner go thru the yellow pages and make their own investigation of who they want to work with.

Edwards: I think there should be a permit process in place. In order to get the permit, contractors need to provide insurance to our building department.

Halloween Hours:

**Bax MOVED to designate Halloween Hours as 4 PM to 8 PM, October 31, 2009 in the Town of Lewiston. Seconded by Johnson and carried 5-0.**

At this time, the Supervisor suspended the worksession and opened the Public Hearing on the proposed local law re grass cutting.

**Public Hearing**

**7:00 PM**

The Clerk read the notice of Public Hearing into the record.

**NOTICE IS HEREBY GIVEN** that a Public Hearing will be held before the Town Board of the Town of Lewiston, New York on the 19<sup>th</sup> day of October, 2009 at 7:00 p.m. at the Lewiston Town Hall, 1375 Ridge Road, on a proposed local law amending Local Law No. 6 of the year 1976 as the same has been previously amended March 12, 1984. The proposed Local law shall read:

1. Chapter 8B §8B-2 is hereby amended as follows:

**PURPOSE**

Since there is a danger to life and property inherent in the use of electrical energy, this local law is enacted to regulate the installation, alteration of wiring for electric, light, heat or power and signal systems operating on fifty (50) volts or more in or on all real property within the Town of Lewiston. The further purpose of this local law is to authorize the inspectors for the Town of Lewiston.

2. Chapter 8B §8B-4 is hereby amended as follows:

**Appointment of Electrical Inspectors**

A. The Town Board shall designate Electrical Inspectors for the period of one year at the yearly organizational meeting.

B. All entities seeking to perform electrical inspection services for the Town of Lewiston shall submit an application form from the Building Inspector's office on or before December 1 of each year.

C. Electrical Inspectors appointed pursuant to this section are authorized to be agents of the Town of Lewiston to make inspections and re-inspections of all electrical installations heretofore and hereafter described, and to approve or disapprove the same.

D. In no event, however, will the cost or expense of such inspections be charged against the Town of Lewiston.

3. Chapter 8B §8B-6 is hereby amended as follows:

**Application for inspection and certificates of compliance required**

It shall be a violation of this local law for any person, firm or corporation to install or cause to be installed or to alter electrical wiring for light, heat or power in or on properties in the Town of Lewiston until an application for inspection has been filed with the Electrical Inspectors designated by the Town Board pursuant to §8B-4 hereof. It shall be a violation of this local law for a person, firm or corporation to connect or cause to be connected electrical wiring, in or on

properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a permit, or a temporary certificate, or a certificate of compliance by the Electrical Inspectors designated by the Town Board pursuant to §8B-4 hereof.

4. Chapter 8B §8B-9 is hereby amended as follows:

**No waiver or assumption of liability**

This local law shall not be construed to relieve or lessen the responsibility of any person owning, operating, controlling or installing any electrical devices, appliances, or equipment for loss of life or damage to person or property caused by any defect therein; nor shall the Town of Lewiston or the Electrical Inspector designated by the Town Board pursuant to §8B-4 hereof be deemed to have assumed any such liability by reason of any inspection made pursuant to this local law.

All persons of interest will be given an opportunity to be heard. If adopted this law will be known as Local Law No 1 of 2009.

The Supervisor asked if anyone wished to address the board.

No member of the public wished to speak on the subject. There was no further comment from the Town Board.

**Johnson MOVED to close the public hearing. Seconded by Edwards and carried 5-0.**

The Supervisor resumed the regular session.

**Edwards MOVED to adopt Local Law No.1 – 2009 re Electrical Inspectors. Seconded by Bax and carried 5-0.**

The Supervisor called for an executive session to discuss a contractual matter and a personnel matter.

**Johnson MOVED for approval. Seconded by Palmer and carried 5-0.** Time: 7:15 p.m.

Minutes taken by Dep. Attorney Robert Koryl.

Present: Newlin; Bax; Edwards; Johnson; Palmer; Leone; Koryl; Masters

Issues Discussed:

1. Massaro Subdivision – Letter from Massero’s Attorney.
2. Deputy Town Attorney’s status in State Pension System.

**Motion by Johnson to exit Executive Session and reconvene regular session. Seconded by Bax and carried 5-0.**

Action Taken:

Since Year 2000 Town Attorney and Dep. Town Attorney were created as public officers, the Town Board approves Robert Koryl and subsequent Town attorneys and Dep. Town attorneys to be part of State Pension System. (Note: Previous Dep. Town Attorney (Dave Boniello) was part of State Retirement System),

**Motion by Edward for approval. Seconded by Johnson and carried 5-0.**

**Bax MOVED to adjourn the regular session. Seconded by Palmer and varied 5-0. Time 7:35.**

Transcribed and

Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk

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