

Present: Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Boniello; Deputy Sup. Elgin; Bldg. Inspector Masters; Police Chief Salada; Finance Officer DiRamio; Town Eng. Lannon; Adm./Op. Lockhart and Town Clerk Brandon. 3 press reps and 4 residents.

The Supervisor opened the meeting at 7:20 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

The Supervisor thanked Carmen Coney, a 33-year employee of the drainage department of the Town for his dedicated service to the residents of Lewiston and wished him a well earned retirement.

**RESIDENTS:**

Carmen & Christie Presti owners of property on Saunders Settlement Road. The Presti's stated that the 2 lots that they own on Saunders Settlement Road extend to Sweethome Road. This property was purchased in rem from the County of Niagara in 1992. In 2003 the Town of Lewiston put up a sump pump station in the middle of the lot and it needs to be moved to between their lot and the one adjacent to it. In conversations with the Town they believed that they owned the property. If nothing can be done, does the Town want to rent or buy the property? Pictures were given to the Board and the Engineer.

Newlin stated that in conversations with Eng. Britton he believed that the pump was in the correct spot. The property was surveyed by Niagara Boundary and they concurred that it was within the Town's right-of-way.

Lockhart also noted that the pump station is within the right-of-way and nothing is on the private property which is 66' wide.

Christie Presti: I was dealing with former engineer, Mr. Gallucci regarding this issue and more recently with Eng. Britton. There is also a water line going through the property. I am unable to do anything with the property although I pay taxes on it.

Boniello asked if there was a title search and if so could it be provided to the Town.

Leone said that he had talked with Mr. Britton and Mr. Lockhart and everything that had been presented to him. It was his understanding that the structure was within the Town's right-of-way.

A discussion took place regarding the right-of-way and the reference to a "paper street".

Newlin asked that Lannon and Britton look into this and report back to the Board.

Charles Preti of 4935 Big Vista Drive. I am a new resident to Lewiston and I recently sent a letter requesting street lights with respect to a safety issue. The area is off of Ridge Road.

Newlin asked that Councilman Palmer discuss this with the Lighting Cmte.

David Sherriff part time Dog Control Officer for the Town introduced himself and stated that he had left packets with regard to a full time DCO.

**AGENDA:**

Johnson asked to add Planning Bd. and Zoning Bd. training. Edwards asked to add a NYSDOT item and an energy audit request for Town Hall and removed SAHS resolution re: Greenway Comm.

**Johnson MOVED to accept the amended Agenda as presented. Seconded by Bax and carried 5-0.**

MINUTES:

Leone: With respect to the 1/14/08 minutes, it was not my intent where it says "Leone does not know if Supt. Reiter has the authority to make an appointment to the drainage dept. My intent was to say "I do not believe that the Highway Supt. has the authority to make an appointment to the drainage dept." His authority to make appointments in the highway dept. is by virtue of the NYS Highway Law and there is no reference in that law that I have been made aware of that allows a Highway Supt. to make appointments within the drainage dept. The only possibility that I can think of is that when the Town created that position and appointed him to that position. If the authorizing resolution gave him that authority and I don't believe that was the case but that would be the one possibility. My position therefore is I don't believe that he has the authority to make appointments to drainage and I believe that opinion has been concurred with by the Association of Towns attorney. That is what I intended to say. I know that it was reported in one of the local newspapers erroneous as well. I want to correct that.

**Johnson MOVED to amend the minutes of 1-14-08 as stated by Town Atty. Leone. Seconded by Bax and carried 5-0.**

**Johnson MOVED for approval of the minutes of 12-06-07 Special Mtg.; 12-10-07 Work Session; 12-27-07 P.H. re Fire Co. Contracts; 12-27-07 P.H. re Stormwater Laws; 12-27-07 RTBM/Final Audit; 1-03-08 Re-organization Mtg. and as Amended 1-14-08 Work Session. Seconded by Palmer and carried 5-0.**

POST AUDITS:

**Johnson MOVED for the payment of Post Audits to Home Depot \$620.74; HSBC Bank USA NA \$1611.17; Office Max-(HSBC-Business Solutions) \$1519.73; Sam's Club \$533.16 and Niagara Gazette \$185.64. Seconded by Bax and carried 5-0.**

OLD BUSINESS:

1. Lighting: Chicora Drive.

**Palmer MOVED that the Town Clerk send information to the residents of Chicora Drive in regards to creating a Special Lighting District. Seconded by Johnson and carried 5-0.**

2. Plumbing Board:

Edwards: I have been working with Mr. Johnson and Mr. Masters regarding the Plumbing Law (ordinance) and should be completed by the next work session.

3. Planning Board Alternate:

Johnson: With respect to the Planning Board and the Zoning Bd. alternates, the Town attorneys and the Supervisor will be doing more research at the Association of Towns meeting and then a decision can be made whether to hold a public hearing for any amendments.

CORRESPONDENCE:

1. The Planning Board on Dec. 20, 2007 approved a request from Louis Serafini for final plat approval of Sattleberg Farms, Phases 3 & 4 with the following conditions: 1) There are no substantial changes in the site plan and 2) The developers meet and receive approval from the Town Engineer and Building Inspectors (Responses attached).

Palmer: We are in receipt of this recommended approval from the Planning Bd., however each of us on the council have some concerns regarding this application and there are issues that need further exploration by the town engineer and town attorneys and for those reasons we are going to put aside this matter.

Newlin: We are asking the engineer and the building inspector to work with the attorneys to address these issues.

2. This is a request from Charles Preti who spoke during the residents comment period regarding street lights on Big Vista Drive.

**Palmer MOVED that this request be forwarded to Lighting Cmte. for their review and recommendation. Seconded by Johnson and carried 5-0.**

3. Request from Albin Owczarczak for rezoning of property on Swann Road. TM#89.01-1-17 from single-family to two-family.

**Johnson MOVED to refer this request to the Zoning Board of Appeals. Seconded by Palmer and carried 5-0.**

NEWLIN:

Legal: I will have an item to update the Board on in executive session and seek private advice of counsel.

Engineer:

Lannon: There is an agency (NYSERTA) and what they do is fund energy conservation program which furthers conservation. NYSERTA through their Flex Tech Program offers funding assistance up to 50% of the study for municipalities to study its energy use in existing buildings. It could be the town hall, senior center etc. to determine if there are any opportunities for cost savings. The program would require that if the Town is interested or pursuing it we would call a representative of NYSERTA who would come out and we would walk through the facilities developing a scope of work. We would put a price on that for the proposal and then NYSERTA would fund up to half of that amount. If the study is \$5000, NYSERTA would fund \$2500. The study would document any potential improvements that could be made for energy conservation.

Lockhart stated that it had been done at the WPCC and was very beneficial and it saved the plant money.

Lannon said that if the Town Board is interested then we would call NYSERTA and have a walk through and then prepare a proposal and submit it for consideration. There is no obligation.

**Edwards MOVED that the Supervisor be authorized to enter into negotiations for an energy audit with NYSERTA. Seconded by Bax and carried 5-0.**

An update on this will be discussed at the next work session.

Greenway Update:

Newlin: At this time we are having discussions with the Power Authority on the funding of projects. I will report back.

Capital Projects/Village:

**Newlin MOVED that the Board authorize the Supervisor, Council Members Bax and Edwards to approach the Village of Lewiston informally for discussion purposes on which projects they would prioritize for funding re: Power Authority settlement which the Town will fund and manage. Seconded by Palmer and carried 5-0.**

Association of Towns Annual Meeting:

**Johnson MOVED that Supervisor Newlin be the delegate and that Councilman Palmer be the alternate for the Assoc. Annual Mtg. Seconded by Bax and carried 5-0.**

Resolutions will be discussed at the next work session.

Proclamation: World Kidney Day March 13<sup>th</sup>.

**Newlin MOVED that the following proclamation be adopted that March 13<sup>th</sup> be declared World Kidney Day. Seconded by Johnson and carried 5-0.**

**PROCLAMATION**  
Recognizing March 13<sup>th</sup>, 2008 As  
“World Kidney Day”

WHEREAS, healthy kidneys are essential to regulate the body by water and other chemicals in your blood, remove fluids, waste, toxins and drugs introduced to the body, release hormones that regulate blood pressure, make red blood cells and promote strong bones, and

WHEREAS, more than 26 million Americans, about one in nine adults, suffer from chronic kidney disease, and

WHEREAS, of the 31,000 New Yorkers afflicted with end-stage renal disease, approximately 40 percent are African American and 16 percent are Hispanic, and

WHEREAS, the two main causes of chronic kidney disease are diabetes and high blood pressure, which are responsible for up to two-thirds of the cases,

WHEREAS, the National Kidney Foundation of WNY has a health screening program to identify people in the early stages of kidney disease, and

WHEREAS, the mission of the National Kidney Foundation of WNY is to prevent kidney and urinary tract diseases, improve the health and well-being of individuals and families affected by these diseases, and increase the availability of all organs for transplantation,

WHEREAS, early detection including regular reporting of the GFR calculation, currently the best indication of kidney disease staging can help prevent the progression of kidney disease to kidney failure, which requires continual dialysis or kidney transplant to maintain life, and

WHEREAS, the cost of treatment for kidney disease patients is disproportionately higher than any other chronic disease, and,

WHEREAS, most patients who have end-stage renal disease rely primarily on Medicare and Medicaid to cover the costs of their life-sustaining care, which includes dialysis treatment, medications, laboratory testing, and as necessary, transportation services to the dialysis facility, and as a consequence, any changes in Medicare and Medicaid eligibility, put them at risk,

**NOW THEREFORE, BE IT RESOLVED:**

That March 13<sup>th</sup> is recognized as “World Kidney Day” in New York State and the Town of Lewiston, New York in the hopes that all possible support will continue to be extended to Chronic Kidney Disease Patients in New York and throughout the country and the world.

Motion made by Supervisor Newlin and seconded by Councilman Johnson and Carried 5-0.

Date: January 28, 2008

EDWARDS:

**Edwards MOVED that the Town Clerk send a letter to NYSDOT asking for a status report on the Town’s request at Ridge Road (Route #104)/Dickersonville Road and Saunders Settlement/Garlow Roads. Seconded by Bax and carried 5-0.**

A copy to be sent to Sen. Maziarz and Assemblywoman DelMonte.

Highway/Drainage Issues:

a. Muckand Pumps

During the work session, Highway Supt. Reiter explained that work was needed on the muckland pumps and he should secure 3 quotes. Only one quote has been secured. Three quotes will be ready for the board meeting.

b. Snow & Ice Contracts

The contracts were reviewed in the work session.

**Edwards MOVED that the Supervisor enter into a contract with the County of Niagara for the Snow & Ice Contract. Seconded by Johnson.**

Newlin said we do need see if all of the towns’ costs are being recovered. When we didn’t have as high extended costs, it was clearly an easy payback on contracts of this nature. What needs to be examined is our Town by virtue of these ice contracts are gently coerced into hiring more town employees that may not be necessary if they

didn't have to take care of the county. Although the county is currently adequately reimbursing us for the five months that we are plowing those roads, the question is do those costs justify carrying those extra employees 6 or 7 months. We should take a look at that.

Boniello said the motion should say the Highway Supt.

**Edwards MOVED to amend the Motion that the Highway Supt. be permitted to enter into a Snow and Ice Contract with NiagaraCounty. Seconded by Newlin and carried 5-0.**

c. Personnel Items:

**Edwards MOVED that Gary Ferenc be promoted to the position of MEO-1. Seconded by Johnson and carried 5-0.**

**Edwards MOVED that Kevin Payne be promoted to the position of MEO-111 with a rate of pay starting at the next pay period be \$24.77 per hour. Seconded by Johnson and carried 5-0.**

Edwards noted that Mr. Payne scored a 95 on the civil service test.

PALMER:

Nothing at this time.

JOHNSON:

Fire Board:

I will be getting a written report from them with certain items and I will report back to you at a later date.

Planning/Zoning Boards:

**Johnson MOVED that a letter be sent to the Chairmen of the Planning Bd. & Zoning Bd. asking them to poll their respective boards to have a training session which is part of the continuing education. The 2 hour session would include the Town of Wheatfield's respective boards. Seconded by Bax and carried 5-0.**

BAX:

WPCC:

I have a letter from Mr. Lockhart which we are all aware of, that the Village of Lewiston has exceeded its' sanitary sewer flow capacity in 2007 and 2006 according to their contract. Mr. Lockhart and I discussed how we are going to handle this in the future with respect to new development in the Village. Mr. Lockhart has raised 3 different ways we can handle this and has done some research as to how the other 3 municipalities are handling it. One would be to require the Village to take a certain amount of I & I out of the system prior to allowing any future development. That is one option. Another would be basically a surcharge or a penalty for over exceeding the flows in future years. I don't think we need any action on this tonight but I would imagine we will be discussing this at our meeting with the Mayor.

Newlin said from the Town's perspective we can see why we have an interest in spending some of that Power Authority money to fix some of these I & I problems in the Village to have better infrastructure and to see if we can tighten up some of the issues we have in our Town plant. This will really help them.

Lockhart: There is a question now that the Village is looking to a five home subdivision and there is a request for down stream capacity. The capacity at the treatment plant has been mentioned in my letter that the question of capacity being filled. This maybe a kind of protracted approach before we can give them an answer. How do I respond to this request to these five homes right now?

Bax asked how soon do you have to respond to that.

Lockhart: I would imagine that they would like to get going on that.

Bax: My personal opinion is that we take this ??? Boards position approach and basically require them to take it out although that is going to be a long term infrastructural kind of investment in the Village. Unless they come to us and tell us somehow they have been able thru their efforts to connect the downspouts to the storm sewers vs. sanitary sewers and they have improved by taking some flows out which I know they have.

Lockhart stated that the superintendent and the deputy superintendent for the Village have been very proactive in the past couple of years. I know they have identified the sources and the question comes into how do you get to them and who is going to pay for it with the money budgeted. I know they have some projects that they are looking into.

Bax asked when it is annual flow of five house subdivision.

Lockhart: A three bedroom house generally flows 100,000 gallons a year. Usually it is 300-400 gallons a day per home. It is not a lot of flow, but we need to address this one and any future developments.

Bax: You are talking about drafting a letter from the Town to the Village?

Newlin said it should come from Mr. Lockhart as they are seeking comments.

Lockhart said they are seeking down stream capacity. It would fall more under the Board's purview on how to respond to it. I need direction on how you want me to respond.

Bax asked would it be enough to say to the developer.....the developer is asking for your approval.

Lockhart: Yes. Basically a down stream capacity letter including along with NCHD before they get the blessings by..... I have approved the five homes and then pass a letter along to the Village Board saying this project is approved but if you bring in any thing else to the table you are going to have negotiate with the Town Board.

Bax: We will have to deal with whatever policy we come up with.

Johnson asked if the Village Planning Bd. had already approved this? (Lockhart did not know). We need to get to them first before it goes any further and before they have gone ahead and approved all of this. This puts them in a bad position as well.

Newlin said it would help Mr. Lockhart if you would get a letter to the Village Planning Board directly addressing the situation.

Bax: I think we should come up with a letter to both the Village Planning Board and the Village itself. This should be one of the things that we discuss at our meeting with them.

**Bax MOVED the Adm. Lockhart be allowed to include in the down flow capacity letter the five home development. Seconded by Newlin and carried 5-0.**

**Newlin MOVED that Adm. Lockhart sent a letter to the Village of Lewiston's Planning Board advising them there is a capacity issue and to take that into consideration with future developments. Seconded by Bax and carried 5-0.**

Vacuum Jet Vehicle:

The Town of Porter Highway Dept. is interested in pursuing a grant for a high pressure jet & vacuum truck.

Lockhart: They are seeking a grant for 90% of the purchase price of the vehicle and the participating municipalities would cover 10%. We are currently looking at a \$300,000 to \$350,000 vehicle and split 4 ways would be around \$7500 to \$8500.

**Bax MOVED to authorize Adm. Lockhart through the Outside Sewer participate to the extent of \$8500. Seconded by Palmer and carried 5-0.**

Sewer Inspection:

**Bax MOVED to authorize Adm. Lockhart to investigate with assistance from our Town Atty. to develop a surcharge fee for home owners who have not responded to his letter of request for sewer inspection. Seconded by Palmer and carried 5-0.**

Johnson said with reference to the letter that you are going to send to Village Planning Board that you would like to be aware of any future developments.

Lockhart said technically a development can't take place without the Town being informed. Sometimes it is hit or miss. What is happening is they are putting all their plans together and then at the last minute on the check list the County refers it down to????.

Bax: I want to avoid this happening of them pulling out and maybe subject us to further liability down the road because somebody put a lot of money into something and can't get the approval because the policy was put into place. Perhaps in the letter you could tell them, you know that you are suppose to be able to do and then sometimes you get the letter or the notice that later on from the Town you have to have approval prior to them acting.

Newlin said what is happening is the Town owns the treatment plant with a capacity on the plant so when other municipalities like Porter, Village of Lewiston and Youngstown exceed their allotted usage as per contract, it actually cuts into the Towns' ability for future development because it is in and out at the same time. The Town has a vested interest and everybody tries to stay within its contractual allowances but should the Town have a commercial or residential opportunity in the future with the capacity and it is not eaten up by of the others.

Edwards asked what is the calendar year for flows. (January to December) What was the overage?

Lockhart: The Village was approximately 17% over. They are allowed 450,000 gallons per day. However, it is down from the previous year. Also this was a dry year and with the wet weather that we had the peak flows were elevated but they did not exceed.

Edwards commented that it always ends up at our table. I know that the trustees realize this and they have initiated a study but maybe they might opt to look at more accountability until this I & I is under control.

**Bax MOVED to go into Executive Session. Seconded by Johnson and carried 5-0.**

Time: 8:20 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon  
Town Clerk

**Executive Session:**

**Present:** Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Town Atty. Boniello\* and Deputy Supervisor Elgin.

Issues Discussed:

1. Personnel issue/Drainage.
2. Pending lawsuit.
3. Possible Lawsuit.

**Bax MOVED for adjournment. Seconded by Johnson and carried 5-0.**

Time: 8:50 p.m.

\*Minutes taken by Atty. Boniello.