

Present: Supervisor F. Newlin; Councilmen A. Bax; S. Edwards, M. Johnson & E. Palmer; Atty. J. Leone; Eng. R. Lannon; WPCC Admin. T. Lockhart; Finance Officer A. DiRamio; Police Chief C. Salada; 14 Residents; 3 Press; and Dep. Clerk C. Schroeder

The Supervisor opened the regular meeting at 7:10 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

#### RESIDENTS STATEMENTS:

Rob Nichols, 471 Aberdeen Road, referenced an article in the *Niagara Gazette*, entitled "Cheers n Jeers" that listed nine news stories published in 2008 that were favorable and eight that were not. Unfortunately, he said, Lewiston made the "Jeers" list. This had to do with the Zito Lawsuit and how "taxpayers got screwed once again." The article also concluded – right or wrong – that the price was too high. One of the things I want to know is how much the Town of Lewiston paid to Hogdson and Russ or any other lawyer. What was the final amount that the taxpayers of Lewiston got stuck with? I would like to see that. I've asked for it in the past and I haven't seen it. I'm going to ask for it again. Back in April, the Supervisor indicated to me that the only thing that was holding him back from disclosing that information was the lawsuit had not yet been being settled. The lawsuit is now settled.

Also, Nichols said he wrote a letter to the editor of both the *Sentinel* and *Niagara Gazette*. "I want to let you know that everything in there is 100% true. If anyone takes issue with anything in there, I would like to give them the opportunity now to respond to that. If they do respond I reserve the right to respond to their comment."

The Supervisor noted that this was not the time for a two-way dialog.

John Ceretto, County Legislator, made reference to the Electronics Recycling Collection scheduled on Saturday, Jan. 10, 17, 24 & 31 from 8 AM – Noon at the Lewiston Landing, North Water Street in the Village of Lewiston. The last collection date (1/24) was our strongest yet, roughly 50 people each hour. Residents of this area are very environmentally conscience of not wanting to put these electronic items in landfills. Ceretto thanked the Town Board and the County for working together on this program. Upcoming collection sites will be held in the Town of Somerset in February.

#### AGENDA:

The following additions were requested: Johnson, FEMA Announcement; Newlin, Riverwalk Development (Engineering); Newlin, Drainage Personnel (Executive Session).

**Palmer MOVED to approve the agenda, as amended. Seconded by Johnson and carried 5-0.**

#### MINUTES:

**Johnson MOVED to approve the minutes of 12/22/08 (RTBM/Final Audit) and 1/5/09 (Reorganization). Seconded by Bax and carried 5-0.**

#### POST-AUDIT:

**Palmer MOVED for approval of payment to Home Depot \$127.78; Office Max (HSBC Business Solutions) \$1,216.08; Sam's Club \$1,309.75; NYS Unemployment Insurance \$404.00 and Niagara Gazette \$185.64. Seconded by Johnson and carried 5-0.**

#### ABSTRACT (1/12/09):

**Palmer MOVED to approve the Regular Abstract of Claims, Nos. 1 to 118 and recommended payment in the amount of \$734,804.31. Seconded by Johnson and carried 5-0.**

OLD BUSINESS:

Appointments:

Environmental Commission: Newlin suggested re-nominating Jim Allen, Chairman, and Keith Fox, Vice-Chairman.

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

Environmental Commission: **Newlin MOVED to accept the resignation of Dr. David Cooper from the Environmental Commission, with regret. Seconded by Bax and carried 5-0.** One vacancy exists thru 12-31-09.

Lighting Committee: **Johnson MOVED to re-appoint Ken Kenney, Chairman. Seconded by Bax and carried 5-0.**

Modern CAC: **Newlin MOVED to re-appoint Councilman Al Bax Liaison to the Modern Citizens Advisory Committee. Seconded by Palmer and carried 5-0.**

Modern CAC: **Edwards MOVED to re-appoint David Nichols, Seconded by Johnson and carried 5-0.**

The Supervisor said three vacancies exist on the Historic Preservation Commission and one on the Environmental Commission (to fill the term of Dr. Cooper).

**Bax MOVED to direct the Clerk to advertise for these vacancies. Seconded by Johnson and carried 5-0.**

Stormwater Management Officer: Johnson said it would make sense if Tim Lockhart took that position as he would be able to oversee all three communities that the Treatment Plan services. Bax was directed to bring this matter up before the Tri-Community. If there is a stipend, he wants it included as part of the motion. Edwards concurred. He didn't want the Town of Lewiston to have the burden of financing that end of it. It should be shared evenly with the Tri-Community.

New Business (Clerk's Correspondence): None

Supervisor Newlin:

Legal: Atty. Leone said he received a memo from the Town Clerk regarding a new section of the General Municipal Law dealing with procurement policies and procedures, namely to 1) Identify the individual or individuals responsible for purchasing and the respective title of such person; and 2) Set forth any circumstances or types of procedures when the solicitation of alternate proposals or quotes will not be in the Town's best interest.

Leone said he prepared a resolution to allow the town's procurement policy to be amended on those two items.

RESOLVED, that the Town of Lewiston guidelines for procurement of goods and services are hereby amended to include the following:

1. The individuals responsible for purchasing and their respective titles shall be the various department heads of the Town of Lewiston subject to the resolution of the Town Board. The Town Board may but shall not be required to name one specific employee department head responsible for such purchasing in compliance with the guidelines; and
2. The Town Board in its sole discretion shall require any proposed purchaser to set forth circumstances when or types of procurements for which the solicitation of alternative proposals or quotations will not be in the best interest of the Town.

**Palmer MOVED to approve the foregoing resolution, as presented. Seconded by Edwards and carried 5-0.**

Engineering: Eng. Lannon referred to his letter dated 1.26.09 addressing Riverwalk Development Phase 3A – Conditional Dedication. Construction of the infrastructure (roadway, curbs, sanitary, water services, drainage and grading) is considered complete with the exception of the final top asphalt course. The infrastructure has been tested and approved. Lannon said a construction punch list developed by his staff has been completed. The final plat map (Phase 3A) is in conformance with the approved preliminary plat and was signed by CRA Engineers in December 2008.

Lannon said there are two legal items outstanding: 1) Two copies of the 2-year maintenance bond; and 2) Acceptance of required dedicated filings. Leone was asked to comment.

Leone said he received a copy of the 2-year maintenance bond today. It's fine; however, I want the Board to be made aware that the bond deals with everything but the top layer. The position I'm taking is that once that top layer is on, they need a 2-year maintenance bond at that point forward. Leone said he discussed with the Engineer that before the top layer goes on, they need to make sure that the integrity of everything that is below it is in shape. At this juncture, Leone said he was okay with the bond that has been submitted.

Regarding the second part of the required dedication filings, Leone said he has been in contact with the developer's attorney, as well as their engineer and surveyor as he has some questions as to the legal description. I'm still not comfortable with it. He will be able to work out any discrepancies once he is able to discuss them with their engineer.

Eng. Lannon noted that approx. 2 years ago, the Town accepted a conditional dedication for Phase 2C. At the point that Phase 2C was constructed, it was agreed that the final top course not be put on at that time. There was a bond issued two years ago which will expire in March 2009, which covers the remaining infrastructure installed in Phase 2C. As a condition for dedication of Phase 3A, we ask for consideration that the final top course for Phase 2C be coupled with the final top course of Phase 3A. At the time of completion, there will be another maintenance bond issued valid for 2-years from that point forward.

Lannon said the developer has submitted a letter dated 1.16.09 which commits to completing the final Asphalt top coat in Phase 3A as well as the top coat in Phase 2C on or about April 15, 2009 (weather dependent).

**Bax MOVED to accept Conditional Dedication of Riverwalk Development Phase 3A, subject to Town Attorney acceptance of required dedication filings, i.e. easements and legal descriptions of roadway; and contingent on the following construction related items being addressed:**

- The developer shall be responsible to complete, by April 15, 2009, the final asphalt top course for Phase 3A and Phase 2C. A separate 2-year roadway bond will be required as a condition of acceptance. Complete final restoration of disturbed areas within the right-of-way and green area adjacent to the Wolfgang property.
- Sidewalks in front of each lot shall be installed in accordance with the Town of Lewiston standard construction details including associated grading within the right-of-way on a lot-by-lot basis.
- No less than one tree per lot (deciduous) is to be planted.

**Seconded by Palmer and carried 5-0.**

As a point of information, Lannon said he spoke with Nancy Dearing relative to her letter to the Town Board. Lannon said he and Supt. Reiter will meet with her at a time convenient to all.

Number of Employees in departments: The Supervisor said it had been suggested to him that the Board set the number of employees in each of the town departments.

When asked to comment, Leone said that since the Town Board controls the budget of all the departments, it is essentially controlling the number of employees each department can set. It's a good idea to state that number for the record. Newlin said the number reflects the current payroll of employees as of January 1, 2009.

Newlin said the number of full-time employees (excluding elected officials) in each department be set as follows: Highway – 15; Water – 5; Drainage – 2; Sewer – 16; Police – 10; Assessor's Office – 2; Bldg. Department – 2; Recreation/Parks – 1; Senior Services – 1; Town Clerk – 4; Supervisor – 1.

**Newlin MOVED that the Town Board set the number of employees in each department, as stated. Seconded by Edwards and carried 5-0.** The Town Board reserves the right to change that as circumstances warrant.

Modern CAC Report: Newlin said the Modern Citizens Advisory Committee has met many times over the last few months. He thanked the chairman and its members for their diligent work. The fact they are securing negotiations with Modern, it is Atty. Leone's strong recommendation that the Town Board entertain the Committee's recommendation in Executive Session. Leone concurred, stating that it involves the recommendation of a committee that was set up by this Board to give advice towards negotiation of a contract or modification of one. It only makes sense if we are going to potentially be in a negotiating position that we hear their comments in executive session.

LOOW Site: Newlin said there was a meeting of elected leaders of the towns of Porter & Lewiston and villages of Youngstown & Lewiston regarding LOOW Site issues. We're sending a strong signal to the Army Corps. of Engineers that they continue to recognize the current RAB Board. We're also sending a letter to our local representation, Senator Shumer; Rep. Slaughter and Senator Gillibrand to use whatever influence they have to make sure the Army Corps. recognizes the RAB Board.

Association of Towns:

**Johnson MOVED to allow Elected Officials and Town Department Heads who previously budgeted for to attend the Annual Town Meeting in NYS, Feb. 16 – 18, 2009 and to notify the Clerk's office immediately to send in the necessary registration forms. Seconded by Bax and carried 5-0.**

Delegate/Alternate: **Johnson MOVED to appoint Fred Newlin as Voting Delegate and Sean Edwards as Alternate. Seconded by Bax and carried 5-0.** Johnson said it's most important this year to have local representation at the Annual Meeting to find out what the Governor's position is with regard to the State Budget and its impact on local governments

Resolutions 1-12: Newlin deferred this to the next worksession.

Annual Fund Report: **Johnson MOVED the receipt and filing of the Supervisor's Annual Report of Funds, to comply with the requirements of the State Comptroller's office. Seconded by Palmer and carried 5-0.**

Councilman Bax:

Bronson Drive Park: Bax said the Board requested the Parks Director to research potential moving the existing park to another piece of land in the Bronson Drive/Escarpment area. He has advised me that there is no other place for a comparable park. He is now looking for some direction from the Board.

Personnel: Bax referred to a request from the Recreation Director to set the hourly compensation for Recreation Laborer Joel Jueckstock to \$10.25 per hour to reflect his tenure and added responsibilities within the department.

**Bax MOVED for approval. Seconded by Edwards and carried 5-0.**

**Parks & Recreation: Bax MOVED to accept the resignation of Benjamin Sicoli on the Parks & Recreation Advisory Board, with regret. Seconded by Johnson and carried 5-0.**

Councilman Johnson:

Roster Addition: The Sanborn Fire Company submits for active membership the following name: Sean Barrett, 5900 Hoover Road.

**Johnson MOVED for approval, Seconded by Palmer and carried.**

FEMA: Johnson said the Town Clerk, along with the Building Inspector, sent out letters to residents residing within a floodplain regarding Notice of Public Open Houses. Johnson said the NYSDEC and FEMA will be holding Public Open House Meetings on February 2 & 3, 2009 from 4:00 – 8:99 PM in Lockport and North Tonawanda, respectively to discuss the new Niagara County Insurance Rate Map and National Flood Insurance Program, in general.

Councilman Palmer:

Moll Subdivision: The Planning Board, on 12.18.08, approved a request from Wallace Moll for one-lot 200'x200' on Upper Mountain Road, as presented. The lot is to be combined with Bryan Anthony's property on Upper Mountain Road. The Environmental Commission recommends a Negative Declaration.

**Palmer MOVED the acceptance of a Neg. Dec. on the Moll one-lot subdivision. Seconded by Johnson and carried 5-0.**

**Palmer MOVED to approve the Moll Subdivision, as presented. Seconded by Johnson and carried 5-0.**

Haseley – R.O.W: The Planning Board, on 12.18.08, approved a request from Rodney Haseley to move a 66' right-of-way located on Walmore Road, SBL3 118.00-1-55.111, from the south end to the north end of the property. The original right-of-way shall be added to the adjoining property.

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

Newlin said there are several executive session items for discussion: 1) Personnel; 2) Litigation; 3) Contractual; 4) Contractual (Modern); Personnel (Interviews for Dep. Town Attorney).

**Bax MOVED to enter into executive session for the above-stated items. Seconded by Palmer and carried 5-0. Time: 8:00 p.m.**

\*Executive Session:

Present: Newlin, Bax, Edwards, Johnson, Palmer, Leone, Modern CAC Committee

Modern CAC submitted report.

No action taken

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

**Edwards MOVED to adjourn. Seconded by Palmer and carried 5-0. Time: 10:00 p.m.**

Transcribed and

Respectfully submitted by:

Carole N. Schroeder

Deputy Town Clerk

\*Executive Session minutes taken by Attorney Joseph Leone