

April 5, 2010

**Information Meeting on Town of Lewiston Gun Range
Held at the Lewiston Senior Center**

7:00 PM

Present: Supervisor S. Reiter; Councilman R. Winkley; Chief C. Salada; Sergeant F. Previte; Atty. M. Dowd; Clerk C. Schroeder; 3 press; 20+ Residents

Supervisor Reiter opened the meeting and deferred to Chief Salada to run the meeting as he is most familiar with the gun range, not the Town Board. He introduced Chief Salada and Sergeant Frank Previte from the Police force.

Chief Salada: Good Evening. Thank you for coming. We are eager to hear how we can make this better. Two other introductions I would like to make from the Air Force, Lt. Col. Jim Lawson and MSgt Clifford Brown, experts on ranges. They are also very familiar with our range.

After hearing Mr. Kraft's and your complaints from the Town Hall, we did curtail the schedule and I have heard some comments that it has been better. We got rid of the weekend shooting and any shooting past 5 o'clock. The last thing we want to do is make your life miserable from the noise. We want to work with you not against you. We still want to be able to go out there and be proficient with our weapons -- God forbid we ever need them on duty. We would like to continue to do that. Somebody brought up an environmental issue as far as the lead in the berm that we shoot into. I spoke with Lt. Matt Pestinger from the DEC. He said as long as the lead in that berm isn't adjacent to any waterways, streams, or creeks it is environmentally fine. If we ever move it, there are some criteria we have to meet at that point -- other than that we are good.

William Kraft: As long as it is not migrating offsite we're good... Down the road you never know what can happen to that land. Maybe we should be doing a little remediation a little at a time so the Town doesn't end up with triple million dollar disposal costs. If you do it a little bit at a time over time and maintain it we won't end up down the road leaving our children and grandchildren with a multi-million dollar clean-up because you know it has to go to a hazardous waste landfill for treatment. The tipping fees at hazardous waste landfills are by tonnage and lead weighs a lot along with the soil that is contained with it. The sooner we start work on it the less cost overall it will be because tipping fees keep going up, treatments keep going up, and our landfills are getting fuller. We might as well treat it while we have a facility right in our backyard rather than closing that one down and sending it out of state for way more money...

Salada: We can definitely look into that. Just a couple of things about the range -- It is surrounded on three sides with thick 24-ft. high berms. No private citizen is ever out there blowing off rounds. It is always a department of a law enforcement agency. They are always out there with a range instructor. They are never without one. They have very specific instructions when they are out there. It is very structured. Most departments go over rules and regulations before the guns come out so everybody knows what they can and can't do on that range. The warning flags are out -- one by the road and one on the berms. Even when the guys are shooting on the line, besides the range instructor, Sgt. Previte always has safety instructors following up the line. If there is any deviation whatsoever from the rules and regs, it is stopped immediately. We try to provide the safest environment possible. We're required to wear our ballistic vests out there, eye protection, ear protection, and sometimes we wear helmets.

Sgt. Previte: The range originally started off being a function of just the Lewiston Police Department. We were pretty much the only ones out there. That was quite a while ago. Over time we have had other agencies use it because it is cost-effective for them; i.e., Air Base when they don't have somewhere to shoot or some of the other police departments. Range fees can be astronomical for indoor ranges. We try to run it like a business. We invited other agencies to come and utilize our range under strict guidelines and with the understanding that they have to comply to our rules and regulations as well. They have returned favors as far as providing goods and services or something for the department because the Town doesn't have the money to do what we want to do just for the range. There are so many other projects, I doubt whether that could be just a focal point. We put money into it but that has been some of the tradeoffs. So, the frequency has gone up as far as the shooting. I can understand that and I can understand that to some of you it's been an inconvenience. We have cut back some things that were necessary but we don't want to inconvenience you. We want to try and get along as best we can with everybody and make it pleasant for you as residents. I know it can be a bother to you. We understand that. The reason that we had shooting at night is not to aggravate anybody. It's because that is part of our job. We

need to do that. You have to train that way. For us, especially in Lewiston, that means \$1,000 a week going someplace inside. We don't have the money in the police department budget to do that so we've done low-light stuff. We've cut that out after 5 o'clock as the Chief said. But, that was the reasoning for it because crime and shoot-outs don't happen at noon on a Sunday. It's at night and it is dark and guys have to be able to shoot in the conditions that they work in. We have guys that work midnights so they have to be accommodated to that and they have to be trained and prepared to do that...

One of the issues I heard brought up was safety... There is never a time when any of our officers are by themselves shooting. There is a fire arms instructor which is usually me and a safety officer which I assign to every officer. What that other officer's job is -- any time the officers are shooting their job is strictly to watch that gun. If they see anything happen -- a safety violation, somebody trips, somebody falls -- everything stops right then. We don't want to create a situation where there is a problem. That is very closely monitored. From the distance that we have with the woods and the berms set up, I'm very confident that is a safe environment. Not only that, you have to remember that that is supervised. You have people in between where our range is and your houses are that are out there with guns all the time hunting on private property. We're more than 500-ft. which is the regulation for New York State away from any structure and away from any dwelling. Again, we want to make it as accommodating for you as we can. That is a little bit of the history of the range. It's grown for us. We're not making anything off of it. The Town isn't making any money off of it. It's been a trade and we try to accommodate other law enforcement agencies that want to come in that don't have a place to do that so that we can allow them a place to train so they are again proficient with their weapons.

Councilman Winkley: What is some of the training you went thru to be a range instructor?

Previte: I went to the FBI Academy and received training there. I had to go to an instructor's course to be a NYS Certified Instructor. You have to be an instructor first before you can be a specialized instructor. It is a total of four weeks just for that. That is not counting all of the other training. That is just the basic certification stuff. I did hear some of the concerns that came up at the Town Board meeting. I happened to be there. I heard a lot of people and I don't know if it was noise but I kept hearing "automatic weapons, automatic weapons". I want you to understand this -- there are very few agencies that are out there shooting with automatic weapons and it is very rare that they do. When you have 15 people on line and you're shooting a course of fire and you're moving, especially if you're doing a combat shot, I hear the rounds going off. To me, it sounds like automatic weapons but I know it's not. Some of the time, yes, there are automatic weapons that are used there. It's not on a regular basis. It's not every time they are out there. That is the exception rather than the rule. The times where you get 12-15 guys on a line that are firing with semi-automatic hand guns, if they are shooting 2-3 rounds every course of fire it sounds like it and I've heard it. I do understand that but I want you to know it is not at the frequency that you think. A lot of times what you're hearing is the semi-automatic pistols because of the lines of fire and the number of officers or whatever drill they are doing.

Salada: Before we open up the floor to comments, I ask MSgt Brown to say a few words about our range.

MSgt Brown: I've also been thru extensive training for weapons instructing. Eleven weeks at academy school from learning how to teach, instruct range safety, to fixing and repairing weapons. We've actually had our base safety come out. They certify the range. If it doesn't meet Air Force standards which are really strict and a lot more strenuous than civilian standards we can't use it. This range has been certified -- twice. Because they changed the positioning, it's even better than it was before. Again safety-wise if it didn't meet it you wouldn't be able to use it. I don't know if it helps to alleviate some of the safety concerns but it's beyond regular civilian standards.

Previte: We did do that. The berms are higher than required and we made it that way on purpose. I have talked with Supervisor Reiter about making them higher. We have no problem with that. It's not any convenience to us; if the town can do it for us and build the berms up higher than that is all the better for us. I think that will help with the sound as well as for some of the containment if the berms are up a little bit higher. It will alleviate some of the sound travel with it.

Kent Davis, 4364 Porter Center Road: I have talked to my friend, whose title is Special Operations Operative Law Enforcement and Military. To address your comment about the height of the berms

– his concern when I talked with him was the vicinity that this shooting range was within a residential area. He found that quite odd. At 20-ft. – you say that’s certified and that is adequate. According to my friend, that is minimal. You changed direction of shooting and you’re shooting to the east – that is my house. I understand law enforcement needing practice and all the training they get. I’m all for it. I’m not trying to speak against it or anything like that. Safety is my concern here. I have family and everybody out there – I’m just waiting for an accidental misfire. Accidents happen. It only takes one time. Twenty-feet, 7/10’s of a mile away. I have a list of how far bullets travel. That’s nasty. Would you want to live there? Would you want your family – your grandchild, your daughter or kids out there?

Previte: On this side of things I would have no problem living there from a safety aspect. I can understand the sound issue more than I can the safety issue – maybe because I’m involved in it as much as I am and that is such a priority for us. The existence that we’ve had there has been without incident.

Davis: That can be proven at this point... According to my neighbor a bullet hit the back of his house that he patched up. We can’t go trace this bullet. There are hunters back there.

Previte: I don’t mean to interrupt but I do want to say this because of that point. Right now, anybody can go back to that range. We go back there and see stuff that’s shot up. There are 4-wheeler paths all over the place. One of the things that we are working on with the Supervisor is securing that as far as fencing in areas. That is one of the shortfalls that we have with it but we haven’t had the means to do that because you are talking some money to do that. That is one of the concerns that we have. Obviously, fencing will be an improvement. Again, with the berms, I would welcome another 10-ft.

Davis: That would make us a lot more comfortable if you could build up those berms... I’ve been made aware that such berms as the one that they practiced at Lancaster are much higher.

Previte: Some of them are. When we relocated the range we did make them higher. They are higher than most. Most of them are 15-ft...

Davis: I’m not questioning anybody’s competence. I’m glad to hear how much we have out there training and such, but you are also out there training. An expert can have an accident. And you are also out there training people who are not experts. That would seem to me that that would enhance the chance of an accident happening. That is what I am looking at – the maximum possible safety. If there are people getting in there that is one possibility that we have to look at too -- I didn’t even consider.

Previte: We do have that issue. Obviously we get calls but it is a little bit of a remote area. We’re working on securing that.

Davis: Shooting to the east. Why are we not shooting north anymore or even south? I’m not trying to put anybody else in harm’s way but you got the town garage there and then all sorts of space that’s these bullets could go over and hit. I know you don’t have a berm on that side.

Previte: There is. The only side there is not a berm on is the Harold Road side (west side).

Davis: Why are we shooting east at all? Why not north?

Winkley: The landfill is elevated now. A lot higher than what it was. There are people working on top and it’s a line of site matter. The landfill is a lot closer than 7/10s of a mile. Plus, the main reason was Modern Disposal now has the Lewiston landfill which is right next to it. That’s going to be elevated. It’s going to be higher than the berm. That is the main reason why it was turned.

Davis: Why don’t we use the Balmer Road facility? My friend is under the impression from the people he knows that it would be no problem getting a key to that place and it’s a heck of a facility. It would solve everybody’s problems. Is there an answer to that?

MSgt Brown: Actually there is. They were letting civilian agencies use that facility and they had an accidental shooting because they weren’t military using those facilities. It’s owned by the Connecticut State armory. They are a guard military but it’s a State funded facility. They shut it

down to just guards and DOD bases...Those are the only people that can use that facility. That happened as of a year and a half ago.

Davis: Well, I'm going to go back to the issue on shooting east then. I don't believe that is your optimal direction to shoot regardless of the height of the berms. I'd love for everybody's safety for the berms to be built up as high as they can be... We need to seriously look at shooting in a different direction... Your side weapons that are used back there can easily reach my house and farther so I'm extremely concerned about everybody's safety.

George Brown, 4510 Porter Center Road: Is this activity covered by the Town's liability insurance and if so, how much does that rider cost?

Previte: I don't believe there is a rider. There is a waiver that we have that our attorneys had drawn up at one point that is signed by every agency that is using it. As far as the Town is concerned I believe the Lewiston Police Department is probably the only one that would be covered under that.

Mr. Brown: I hunt right behind (the range) on my property. If there were an accident and I'm killed, whose insurance would cover that liability to provide for my wife and family?

Atty. Dowd: ... My guess is that the Town's general liability insurance would take care of it. I can take a look at the endorsements and make sure and report back to the chief. We might get indemnification from other agencies so that if they were to have created this incident...

Mr. Brown: Is it safe to assume there would be an additional cost for a rider to cover a range of this nature?

Dowd: I don't know if it would be a separate rider or if it is just not an extension under our existing policy. If there's not exclusion under the existing policy then you would have coverage since it's a Town operation. I'll confirm that and get back to the chief. I'm sure if there are changes that have to be made the Town would do it.

Mr. Brown: When this first was developed, why were none of us consulted? I don't know if anybody in this room was involved but adjoining property owners were never consulted about the installation of this range. I have lived here since 1964. If I do something on my property the Town sends out a letter to all the residents around me asking for their input. What I do on my property is far less dangerous than a firing range. Can anyone tell me why we weren't involved in this decision?

Previte: It was before my time. I couldn't tell you when exactly they established it.

Mr. Brown: In the last three years, there has been a tremendous escalation. It's become intolerable. A lot of us feel that way. I live around the corner on Porter Center Road, as well as having property behind the range itself. I would like to go back to the previous question. Why was the muzzle direction changed from north to east? We all know that the muzzle direction is where the most noise is.

Previte: That was because of Modern.

Mr. Brown: But it's safe.

Previte: It's safe when you have a berm that is 20-ft and you're controlling the elevation of the shooting. If you have something that is above the berm, then that's not safe. Let's say a round got over that 20-ft berm by three-feet, the handgun which is what is primarily shot out there, the travel of that by the 7/10's of a mile is going to be greatly diminished where the arc is going to be on the way down. It's not going to be raised even if you shot up and, there are a number of trees there... There would be very small change that it would make it thru.

Mr. Brown: I agree it's slim. The chief was quoted in the paper it's a slim chance. We're concerned about that slim chance.

Previte: Where on the other side it was a greater chance. As Councilman Winkley said they (Modern) purchased the land right on the other side. It's our understanding they were going to do

something with that. At the end of the berm to where Modern has that land is a very short distance on that side. Having that in mind for the future and knowing that is was going to be elevated that is why that decision was made.

Mr. Brown: I read in the paper a few months ago that there was a plan to put an indoor range on the base. Is that correct?

MSgt Brown: That is correct. We're actually in the stages now of doing the plans. The earliest is probably this time next year before we have an indoor range out there. Right now, the primary range we do use is the Model City range. Sometimes because of weather conditions we can't get back there. Lewiston has been nice enough to allow us to use their range. We probably use that 3-4 times a year.

Mr. Brown: This new indoor range on the base, would that be something that would be assessable to our town police?

MSgt. Brown: We are going to allow outside agencies, thru memorandums of agreement, to use the in-door range out at the Air Base.

Mr. Brown: One of goals that I and some of the rest of us have is to encourage the Town to have an in-door range. It would be better for you and better for us. You could do your night training -- which is essential. There's no problem of safety. The noise would be mitigated. I give you my pledge I'll work with you any way I can to make sure we have that, if this is a viable option. We can live with a temporary situation with the restrictions you've put on the range right now. At least I'll speak for myself in that regard. The long term goal has to be to close this down. Some of us have small children and grandchildren. Some of us work nights and have to sleep during the day. The noise level that has escalated the last three years cannot be continued. It's become a quality of life issue for us. It is a property value issue as well... If we propose to put this next to the Niagara Falls Country Club would it be viable? Whatever we can do, I would like to encourage the Town, Police Dept., military, if necessary, somehow let's get an in-door range so we do not have to put up with the burden of all this noise and anxiety that goes with it.

Previte: Just so you know, the Lewiston Police Department shoots there three times a year. That's it. The rest of the time, we've accommodated other agencies and we opened it up to them to try to support ourselves... We can work with you as far as limiting hours, yes. It's going to hurt other agencies but I'd rather have that and make you guys happy and still have what we need. Our being out there shooting is not going to bother you, three times a year. Other agencies pay us back. They help support the range and help make that a better place as well. I do understand what you're saying about the frequency and that's absolutely something that could be discussed. The in-door range doesn't solve all of our problems. We still have to, per New York State and liability issues, we have to shoot and one of the things we have to do as instructors is set up courses of fire and set up instruction that is real life for our guys -- that's indoor and outdoor. Mostly, at lot of times in Lewiston, it's outdoor. We have requirements to shoot day, night, light, low light, inside and outside. We just can't do one... I also think that we have something that is a very good resource in the area that nobody else has as far as police departments or towns that is beneficial to law enforcement as far as federal government. As far as the safety issue, I don't know if you understand completely what you're dealing with when you talk about a government agency having to certify a range. Usually, that's jumping thru hoops and everything else but we've done that. Safety has always been our concern. We wanted it to be the safest place that we could make it. We've met government standards because of our concerns for the safety...

Bill Kraft, 1434 Swann Road: I've been here for 18 years in my home... I understand you want to help other agencies. We appreciate you guys. You guys leave your homes and don't know if you are ever going to return when you go to work. We understand that. You protect us. You're our first responders when we call 911 and need somebody. I've been down there and used to ride four-wheelers on the exact trails you're talking about. Since I moved there, that's when the range showed up without any input ever from the residents. We didn't complain because it was the Lewiston Police Department. That's all it was and that's all it should ever be. We should not be hosting other agencies no matter what they give us...

Ashley Davis, 4364 Porter Center Road: I have a two year old son that plays in the backyard. I'm 7/10s of a mile from the shooting range. I personally have gone out there. It sounds like Vietnam

in my backyard. I told this to the Town Board also. I don't want to live like that. I used to live in the Falls. I moved here to get away from all the shooting and the nightly fiasco up there. I came here to feel safe. I have severe anxiety. When I hear those guns going off in my backyard you don't understand what that does to me. I'm a victim of domestic violence. I'm also a victim of assault. I don't want to hear that stuff going on. I don't. It puts me over the edge. This (shooting) has become a life problem. It's not just something simple. Why can't you use the 3-F Club? It is a shooting club. I have family that are police officers. It is not true that nowadays police officers have to carry AR-15 patrol carbine in their vehicles? Those travel up to two miles. You have to have restrictions on shooting those. We're 7/10s of a mile. Where do you think those bullets are going to go? I've been back to those berms. They do not look safe whatsoever. You guys are shooting directly at the back of our house. Like my father said – accidents happen. It's known accidents happen. How would Lewiston like to have on their heads a two year old and a Mother playing in the backyard and accidentally one of them gets shot – God forbid something happens. What are you going to do then? Do you want that on your conscience? Like my Dad said you can shoot to the south. Why shoot east? It makes no sense to me whatsoever. There are people up and down Porter Center Road. You are in direct path of their houses. There is nothing we can do to protect ourselves. We can't put berms in the back of our houses... I'm not against shooting. Police need to do what they need to do. Police are our helpers, but, shooting at the direction of houses where children are is not a good idea. It's not a good idea at all. Please try to figure something out. I, myself, called the Lewiston Police. Officer Nicoletti came. There was shooting going on in the back of my house. I couldn't even put my son down for a nap. He assured me he would go over there and shut down the shooting. Twenty minutes later they started up louder than they were originally. My son didn't get a nap that day. You are supposed to be officers of the law. When you assure somebody that something's going to stop shouldn't it stop? Not start back up twenty minutes later worse than it was originally. Like I keep saying – I have anxiety. I don't want to hear shooting like that. I'm on mediation for it. I didn't want to be in my house pacing thinking bullets are going to come thru my window. Worst of all, my two year old son is running around my house. Accidents happen. If a bullet came flying thru a window – if something like that ever happened, the Lewiston Police Department does not want to have that on their head. It's a possibility. Something needs to be done. It's as simple as that.

Previte: The Niagara Country Sportsman Club is a shooting range that is not set up for law enforcement. They are set up for something different. Law enforcement needs have become more military. I understand you don't want to build berms out back of your house. That's why we built them at the range. The AR-15s and everything else – if I had it my way, we would carry sticks. If nobody else had guns I wouldn't care if we had them or not. The reason that we have that stuff is because we have 12 schools to protect. If you pick up the paper and read anything about school shootings -- these kids are getting their dad's guns and going in there with rifles. We're already out-gunned. New York State tells us that when we get there as police officers we can't fall back and call a SWAT team. We have to go in and stop the threat. How many of you want that job? So we do have AR-15s. That is the reason because I'm not going to send my guys into a building where there is shooting and have them out-gunned if we can avoid that. Would I ever want that on my head? No. That is why I do everything that I do at the range. That's why these guys are sick of hearing my voice when going over the safety instructions. If they are doing something wrong they are stopped. The berms we have set up -- there is nothing that we shoot that will make it thru.

Jeff Miller, 1516 Swann Road: I just want to say kudos to the Lewiston Police Department for being around the area, especially when I'm out of town. Over the last few years there's been increasing activity at the Harold Road practice range that has severely hampered our quality of life. As an owner of a small farm and six kids we are being assaulted almost daily as the weather improves by weapon firing including automatic weapons. It is a lot more often than you think -- beginning at sun-up and in many cases continuing into the evening. You cut that down and shut off the weekends – fantastic. I'm half of a happy man. Imagine yourself moving out to the peace and quiet of the country when suddenly and without notice you're confronted with a new neighbor that we call "little Bagdad". This was suddenly dumped into my lap and that sucks. Visitors are constantly looking over their shoulders when they are over and my wife's dream of buying the property north of us to turn into a rehabilitation riding center is shot... You can't stop a stray bullet. Accidents happen. You can't guarantee that's never going to happen, correct?

Previte: There is no guarantee of anything. No.

Miller: It shouldn't even be there. It should not exist. The frequency that has been going on is just plain crazy. The noise pollution is unacceptable. For those of us who live there it's just awful. People inquire about changing the firing direction. If you went to the north you would hit a guard house. To the south that is me. I'm on the south side.

Alan Baird, Jefferson's Way: I would like to speak on the safety issue. I realize accidents could happen. I've shot 28 years. I retired from the Lewiston Police Department two years ago. I went to a lot of different ranges. When they asked about the 3F Club & Niagara Gun Range – They didn't want us there. We did shoot there over the years. They didn't want us. We shot at Batavia. We shot at the LaSalle Sportsmen's Club before. They don't want us there. So, in the early 90's, the Town built a range. Could an accident happen? It could. But, I have seen the Sergeant go out there in the spring and measure the berm to make sure it hasn't eroded away during the winter. I think for sure they are going to put the berm higher. I know they are going to make a change in the amount of shooting going on out there. I would just like to say that safety-wise, I never shot for a guy better and more safety minded than him (Previte)...

Kraft: When that range was created, what kind of weapons did you carry? What was the largest weapon other than a shot gun did you guys carry?

Baird: A shot gun.

Kraft: Now, we're in the year 2010. We have wars. We have terrorist threats. Our weapons had to increase to keep up with the gang violence, terrorism and everything else that threatens our country every day. We understand that. But when that range was put in there it was for pistols. That is why you never had a noise issue before. It was pistols. Three times a year -- no problem. If you still want to shoot your pistols there, fine. Take the weapons that you need to be proficient and certify them somewhere else, please.

Previte: Again. The pistols are twice. The special weapons -- AR-15s and the shot guns -- are once a year.

Kraft: Then they need to go to the military base to certify them. We can handle your pistols. We don't have problem with that. Take the big weapons and any new big weapons that you get – they don't belong there anymore. They are just too disturbing... When all these large caliber weapons evolved with our environment in this world, it outgrew your facility no matter what you do to contain it. Now, we need to grow with the weapons. We need a public safety complex in this town for the police and fire departments. A state-of-the-art safety complex with classrooms, training towers for the firemen, an in-door range and possibly a place to shoot out-doors. A perfect spot is right across from the Power Authority. You have all that land next to the thruway. You don't have any homes and you would have a constant police and fire presence in front of the most important thing we have in this town – the Power Authority... We're a border town. Let's get the funds and get it done.

In closing, Salada thanked everyone for coming and expressing their concerns. We really appreciate the suggestions and feedback. It definitely will be addressed.

Reiter said he would like to meet with the Town Board and Chief Salada to address the comments. He would like to meet with the residents again at the end of June and end of September so they can see what progress has been made based on the suggestions made.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk