

October 22, 2012 Regular Town Board Meeting

6:00 P.M.

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Atty. M. Dowd; Atty. M. Davis; WPCOC Ch. Op. J. Ritter; Police Chief C. Salada; Bldg. Insp. T. Masters; Finance Director M. Johnson; Hwy. Supt. D. Janese; 3 Press; 6 Residents and Dep. Clerk C. Schroeder

Also Present: Grant Writer Bernie Rotella

The Supervisor opened the Regular Meeting at 6:20 p.m.

Councilman Winkley led the Pledge of Allegiance followed by a moment of silent reflection for our U.S. Troops, and in remembrance to the Ambassador to Libya and the servicemen recently killed.

Reiter opened the two minute statement period.

RESIDENTS STATEMENTS:

Paulette Glasgow, 836 The Circle, asked that also reflect on the thoughts of Dep. Clerk Donna Garfinkel's husband who was recently hospitalized and Building Clerk, Sandra VanUden who recently underwent surgery. She asked that they be kept in everyone's thoughts.

Resident
Statements

Also, she questioned why the Joseph Davis Land Development Corporation is pursuing development in the City of Niagara Falls, specifically the Schoelkopf Hall at Deveaux State Park. Why are we doing development in Niagara Falls? Do we have a special arrangement to do that and why aren't we finishing the project we did at Joe Davis?

Bruce Sutherland, 605 Center Street, as volunteer President of the Historic Association thanked the Town of Lewiston Town Board, Highway Dept., Recreation Dept., and the Town Police Department, et al for the great support during the Battle of Queenston Heights weekend. It was a great success and was well received. The press was fantastic in its coverage of the events. He reminded everyone that on 12/1 & 12/2 the Historical Association is putting on its Tour of Homes and on 12/15 the Flames thru Lewiston.

AGENDA:

Additions:

Marra: Parks & Recreation items

Bax MOVED the agenda, as modified. Seconded by Marra and carried 5-0.

APPROVAL OF LOCAL LAW RE 2% OVER-RIDE CAP: Palmer MOVED to table until 11/1, Seconded by Winkley and carried 5-0.

APPROVAL OF LOCAL LAW RE NOISE ORDINANCE: Palmer MOVED to submit the Noise Ordinance into law. Seconded by Bax for discussion:

Noise Ordinance
Adopted (LL#11)

Palmer: My reasons for doing so are based upon modernization of the existing law. I'm not a big fan of creating laws to satisfy one particular situation but I think in this case by recommendation of Counsel and the Police Chief who is forced to use this law in the scope of his duties it probably needed to be updated and modernized.

Dowd: That would be as amended to include the limited hours of operation for automobile shops, Monday – Saturday, from 7:00 a.m. to 6:00 p.m.

Palmer MOVED the motion, as amended. Seconded by Bax and carried 5-0.

MINUTES:
Marra MOVED to approve the minutes of 9/24/2012 (RTBM). Seconded by Bax and carried 5-0.

ABSTRACT:
Winkley MOVED to approve the Regular Abstract of Claims, No 3590-3960 and recommended payment in the amount of \$593,591.20, plus a post-audit of \$469,142.67. Seconded by Marra and carried 5-0.

POST-AUDIT:
Winkley MOVED for approval of post-audit payments to Home Depot - \$186.33; Sam's Club - \$648.71 and LEAF - \$455.80. Seconded by Marra and carried 5-0.

OLD/PENDING BUSINESS:

1. Back-up Generators: The Engineer said he is waiting for a handful of material submittals and certificates of insurance from the contractor. Once those get reviewed we will have a green light on the project
2. Legacy Drive: Atty. Dowd said he's been working with the Building Inspector in trying to get additional application fees from the developer. As it turns out, we are delaying this because there appears to be a person coming in to take care of the existing mortgage problems that the estate has had. If that happens, that may resolve the problem without the Town having to do anything.
3. Street Light Request - St. George's Church: Pending a response from the Lighting Committee.
4. Mawhiney Mine: Atty. Dowd said an Order has been prepared and has been circulated. They are awaiting the Order signed by Judge Boniello. Once it is circulated, the check will be replaced with a new check.
5. Culvert - Pipe, Swann Road: Reiter said this has been addressed.
6. Tower Request - Raby: the Building Inspector said they are awaiting a response from Mr. Raby.

CLERK'S CORRESPONDENCE:

Item No. 1: Correspondence from Dean W. Spring: I am writing in hopes that a longstanding safety issue regarding a dead tree on Town land that abuts my property at 764 Michelle Court will be resolved in the very near future. Over 1 ½ years ago, I contacted the Town regarding a dead tree on Town land behind our property. The tree has the potential to cause damage to improvements made to our back yard as well as to our home when it eventually falls down. Shortly after my call to the Town, Mr. Doug Janese contacted me and inspected the tree. He agreed that it as dead and required removal. Despite many phone calls over the past 1 ½ years to Mr. Janese, no action has been taken and the tree continues to rot and become more of a hazard. My family and I have resided in Lewiston for almost 30 years. I have always extolled the virtues of living in Lewiston to anyone who would listen. The level of service and the amenities the Town offers are first rate. This is why I find it even more perplexing that such a safety issue as the one we are facing has yet to be resolved. I realize the cost of removing this dead tree is significant. However, the potential cost to the Town and to my family when the tree eventually falls will be much greater. I ask that the Town make all necessary arrangements to have this tree removed as soon as possible this fall.

The Supervisor directed the Gary Catlin, Dep. Supervisor to meet with the Highway Supt. concerning this issue and to report back to the Board.

Reiter: It seems that on a monthly basis we're going calls concerning trees in these green space areas. It's a perplexing issue. In all do respect to the Highway Supt., I had the same problems when I was Highway Supt. There were a lot of problems accessing those areas. These trees are dying. We're running into several issues because of the

nature of the green spaces. Let me ask the Attorneys, what would happen if we remove all the trees all of a sudden? We're constantly getting complaints.

Dowd: That is your property. If you think you should take them down – take them down. I don't think there is a single green space that we don't have access to. What the Supervisor might be referring to is physically getting to them.

Reiter: It's not easy. We have access, but the mess we would make getting back there to address one tree might solve one problem but create 12 others... I'm just spouting out of frustration. I'm not considering removing all the trees in the green space. Let me make that perfectly clear.

Dowd: You could consider inventorying all the trees that look like they could cause a problem.

Bax: Mr. Janese, you went out and saw this particular tree we're talking about. Where is that located with respect to the road?

Janese: It's in the green space directly behind 764 Michelle Ct. I was going to address it last year. I was told it's no longer Highway Dept. work, so I haven't addressed it.

Palmer: Would you recommend the Town hire a contractor to remove these trees?

Janese: Because of its proximity I would contact a tree service. We have one we have been using. They've been very successful and reasonable.

Janese said he would meet with Mr. Catlin and discuss the options and report back to the Board.

Letter of Support

Item No. 2 is a request from the Town Clerk of a letter of support from the Town Board to the Niagara County Legislature applauding the dedication and efforts of Mr. Richard Pope, Director of the Refuse Disposal District who has been instrumental in the formation of an electronic recycling program held in the Village of Lewiston every month, as well as a hazardous waste disposal program held once a month in the Village. These services to residents are invaluable and we should urge for its continuation.

Marra MOVED that a letter be sent to Chairman John Syracuse of the Refuse Disposal Committee on Mr. Richard Pope's behalf. Seconded by Bax and carried 5-0.

Fund Transfer - Water Dept.

Item No. 3 is a request from Water Foreman, Bob Nablo to transfer funds from the 2012 budget in the amount of \$500 from SW1-8310.200 and \$500 from SW1-8330.000 to SW1-8340.400 for a total of \$1,000. Johnson said the Water Dept. has to get a new piece of equipment for the meter readers.

Marra MOVED for approval. Seconded by Winkley and carried 5-0.

Supervisor Reiter:

Legal: Atty. Davis said he has two on-going litigation issues he needs to discuss in executive session.

Engineer:

a) Riverwalk Sidewalks: Eng. Smith said there are not enough funds in the escrow account to award a contract to the apparent low bidder. Smith recommended that all four bids be rejected at this time.

Winkley MOVED for approval. Seconded by Marra and carried 5-0.

Bids Rejected Riverwalk Sidewalks

Reiter said a lot of the sidewalks are not as bad as the homeowners implied. He said the repairs could be done with Town forces. Reiter said none of the sidewalks pose a safety hazard at this time.

Finance:
2013 Budget: Reiter said they have to schedule a Public Hearing on the 2013 Budget.

PH - 2013 Budget
11/1 @ 6PM

Winkley MOVED to schedule the Public Hearing on Thursday, Nov. 1 at 6 PM at Town Hall. Seconded by Palmer and carried 5-0.

Personnel:
Board of Assessment Review:

Assess. Review
Board Appointment

Marra MOVED to re-appoint Dominic Balassone as Board of Assessment Review member for a five-year term expiring 9/30/2017. Seconded by Winkley and carried 5-0

Water Dept:

Water Meter/Backflow Preventer - Joe Davis Park: Reiter said he would address this with the Foreman, Bob Nablo.

Uniform Bid

Notice

Uniform Bids: The Supervisor asked for a motion to advertise for bids for Textile/Uniforms for various Town Departments.

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

Parks Agreement
Joe Davis

NYS Parks Agreement: The Supervisor asked for a motion to allow him to enter into an Amended Operation and Maintenance Agreement with a fixed term of twenty (20) years relating to the operation by the Town of Joseph Davis State Park. The amendment shall amend the terms and conditions of the O & M Agreement dated Feb. 18, 2011.

Marra MOVED that the Supervisor execute the amended agreement. Seconded by Marra and carried 5-0.

Colonial Village Park
Lease Extension

Colonial Village Park Contract: Reiter said the Lease Agreement between the Town and Lewiston Fire Co. No. 2 for the Park has expired. Reiter asked for authorization to sign the contract extension for renewal.

Marra MOVED to authorize the Supervisor to sign the Lease Agreement Extension with Lewiston Fire Co. #2 for Colonial Village Park. Seconded by Bax and carried 5-0.

Archeological Survey Services: As part of the SEQOR process, the Town would have to perform an Archeological study for anything being disturbed as a result of construction of the boat launch area at Joe Davis Park.

UB Awarded Contract for Boat Launch Survey Services

Robert Lannon, Engineer for said project, said this was a requirement of the NYS DEC. Two quotes for archeological survey services were received:

University of Buffalo	\$4,275.00
Morton Archeological Services	\$8,980.00

Palmer MOVED to accept the low bid in the amount of \$4,275.00 from the University of Buffalo for Archeological Survey Services for the Joe Davis Boat Launch construction project. Seconded by Marra and carried 5-0.

Also, as part of the SEQOR process, Lannon said the Town of Lewiston, as Lead Agency must declare a positive declaration which is the first step in allowing CRA Engineers to proceed in the preparation of an EIS (Environmental Impact Statement). This will be published in the Environmental Notice Bulletin. The second matter would be to schedule a Public Scoping Session Meeting for Nov. 26.

Pos. Dec for Boat Launch Project

Winkley MOVED to approve a positive declaration for SEQOR concerning the Joe Davis Boat Launch Construction project. Seconded by Bax and carried 5-0.

Lannon said the next step of the process would be to identify the draft scoping document. He suggested a Public Scoping Meeting be held Nov. 26, at which time he

would make a brief presentation and solicit comments from the public to make sure they have all the environmental impacts documented the facts sheet.

Palmer MOVED to schedule the Public Scoping Session for Monday, Nov. 26 at 5:00 p.m. Seconded by Marra and carried 5-0.

Councilman Bax:

WPCC:

WPCC - Chemicals

Bax MOVED to participate in a cooperative bid with the Niagara Falls Water Board for wastewater chemicals. Seconded by Marra and carried 5-0.

Plant Electrical Improvements: On Oct. 16, the Town of Lewiston received three bids for Plant Electrical Improvements, as follows:

CIR Electrical Construction Corp.	\$1,239,000
Frey Electric Construction Co., Inc.	\$1,345,000
Ferguson Electric Construction Co., Inc.	\$1,510,000

Electrical Bid
approved

Bax MOVED to approve the low bid from CIR Electrical Construction for Electrical Upgrades at the WPCC in the amount of \$1,239,000. Seconded by Winkley and carried 5-0.

Councilman Marra:

Unpaid Grass
Cutting Taxes

Grass Cutting Taxes: Marra referred to a memo from Tim Masters regarding Grass Cutting - Taxes. Per the grass cutting law, he had 48 parcels in the town cut for the total fee of \$6,634, with a \$100 administration fee per parcel for a total of \$4,800, totaling \$11,434. There were 2 house demolitions with a total fee of \$5,000. The administration fee is \$100, totaling \$5,200. He is requesting that \$16,634 in fees be placed on the Town and County tax bill for 2013.

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

Kline Road Cemetery: Marra said the Cemetery does not technically belong to the Town but the Town does maintain it. The Town has plans of putting up a sign with pertinent information on the cemetery. The sign would be approved by the Signage Committee.

Kline Cemetery
Sign

Marra MOVED to waive the Sign Permit Fee for the Kline Road Cemetery sign. Seconded by Palmer and carried 5-0.

Bldg. Dept. Vehicle: Marra said the Building Inspector is looking into purchasing or leasing a vehicle for his department and would provide further details when they become available.

Parks & Recreation:

1. Academy Park Electrical Upgrades: Marra said the Town was given approval to sign a contract with National Grid to install three (3) 75 KVA electric service upgrades (approx. 270 amps at 480 volt) to Academy Park for the price of \$21,030.55 and for the purchase of equipment to complete this project at the price of \$48,623.80. The funding source for this project is the Niagara River Greenway.

Electrical
Upgrades -
Academy Park

Original approval was given for these upgrades from the Host Community Committee with the approval of the 2011-2012 Ice Rink Greenway Project. The Town would re-submit this request on Tuesday, October 23 to the Host Community Committee. This service would eliminate the need for diesel-fuel generators to be used during Ice Rink use, and provide appropriate levels of power to the park for all functions.

Eng. Smith noted that should National Grid see loads constantly above the 270 amps they would change the transformers out to larger ones at that time at no cost to the Town.

When asked, the Rec. Director said the Ice Rink will operate from November 30 - January 27.

Marra MOVED to authorize the Supervisor to sign a contract with National Grid to install (3) 75 KVA electric service upgrades to Academy Park at \$21,030.55 and for the purchase of equipment to complete the project at \$48,623.80 with the Funding Source being the Niagara River Greenway. Seconded by Winkley and carried 5-0.

*Contract for
Ice Rink Rental
Approved*

Marra MOVED to authorize the Supervisor to sign a contract with Ice Rinks 2 Go, in the amount of \$79,250 for the 2012-2013 season. Funding to be drawn from Niagara River Greenway Host Community funds. The Town of Lewiston will resubmit this request on October 23 to the Host Community Committee and to approve funding from the Niagara River Greenway Committee and Host Community Committee for the lease, operation, and upkeep of the 2012-2013 Lewiston Family Ice Rink and re-new the agreement in the amount of \$154,654. Seconded by Winkley and carried 5-0.

This contract with Ice Rinks 2 Go continues the five (5) year "Lease to own" option from this company and includes sixty (60) days of skating time, from November 30 to January 27 and include all needed resources for maintenance and operation of the Ice Rink, including set up and tear down.

Also, Marra asked to have a fee schedule for events and sponsorships, as follows:

Birthday party Rink Rental: \$250 (Includes two hours of ice time with guards, skate rentals)

Tent Vendor: \$100 per day (Vendor may not serve Coffee or Hot Chocolate or any competing products).

Community/Organization Sponsorships: \$500 / \$1,000 / \$2,000. (A tiered sponsorship, sponsors amount donated will include signage at the rink and on the rink entrance sign of varying size, special "sponsor night" opening night, and public recognition for support.

Marra MOVED to approve the fee structure as referenced for special use at the Ice Rink, Seconded by Winkley and carried 5-0.

Pletcher Road Park: Marra said that as of August 2012, the agreement between the Town of Lewiston and the Silo Restaurant, Inc. for operation and management of the Pletcher Road Park Concession Stand expired. The Recreation Department would like to see proposals from the community to determine if there is an opportunity for management of the concession stand that is beneficial in terms of convenience and guaranteed healthy revenue for the Town of Lewiston Recreation Department. Once proposals are received, the Recreation Department will evaluate expected revenue and make a recommendation to the Town Board as to which proposal is most viable and attractive to the Town of Lewiston Recreation Department.

Marra MOVED to approve the Recreation Director to seek proposals for an outside group to enter into a lease for management of the Pletcher Road Park Concession Stand. Seconded by Bax and carried 5-0.

*Concession Bids
Sought for
Pletcher Park*

Lastly, Marra said the Recreation Department and Parks & Recreation Advisory Committee will be hosting open interviews for winter seasonal positions within the Recreation Department on Nov. 7th and 8th from 7 PM-8PM at Lewiston Town Hall. Positions available are Ice Rink Skate Guards, Ice Rink Service Desk Workers, Basketball Referees, and Basketball Instructors.

Leighton Subd.

Councilman Palmer:

Leighton Subd: The Planning Board on Oct. 18, 2012 approved a request from James W W. Leighton for one-lot on Dickersonville Road, SBL# 76.00-1-17.2, as submitted.

Neg Dec.

Palmer MOVED to issue a Negative Declaration for said project as recommended by the Environmental Commission. Seconded by Bax and carried 5-0.

One-lot approved

Palmer MOVED to approve the subdivision, as submitted. Seconded by Bax and carried 5-0.

Councilman Winkley: Announced Haz-Mat Meeting for Wed., Oct. 31.

Supervisor Reiter read the following announcements:

Jt. Town/Village Board Meeting, Oct. 29 at 6:00 p.m.

Public Hearing, Nov. 26, 5:30 p.m. re Amendment to Town Code, Ch. 30, Zoning, followed by RTBM at 6:00 PM

Bax MOVED to enter into Executive Session to discuss two pending litigation matters. Seconded by Marra and carried 5-0. Time: 7:20 p.m.

Present: Reiter, Bax, Marra, Palmer, Winkley, Atty. Davis, Atty. Dowd, G. Catlin

Executive Session:

Items Discussed:

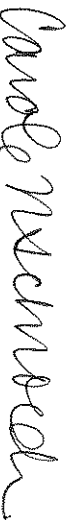
1. Hutchins Assessment
2. Snead Litigation
3. Gibson Litigation

Winkley MOVED to exit Executive Session and reconvene Regular Meeting, Seconded by Bax and carried 5-0. Time: 7:40 p.m.

NO ACTION TAKEN.

Marra MOVED for adjournment. Seconded by Palmer and carried 5-0. Time: 7:45 p.m.

Transcribed and
Respectfully submitted by:



Carole N. Schroeder
Deputy Town Clerk