

**PRESENT:** Supervisor Dennis Brochey; Councilmembers Bax, Conrad, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Building Inspector Masters; Highway Superintendent Janese; Town Engineer Lannon; Finance Officer Kloosterman; Police Chief Salada; 3 Press; approximately 30 Residents and Clerk Donna Garfinkel

The Supervisor opened the meeting, followed by the Pledge of Allegiance and a moment of silent reflection.

Police Officer Gregory T. Schuey received a Proclamation from the Town for his many years of service. Supervisor read proclamation.

#### TWO-MINUTE STATEMENT BY RESIDENTS

The Supervisor asked if any resident wished to address the Board.

Gee, Hugh – Town of Lewiston Justice – Gee requests the Board appoint a Town Board liaison for the Justice Court.

**Bax MOVED to appoint Councilman Winkley as the Justice Court Office Board Liaison, Seconded by Conrad and Carried 3 – 0.** (Winkley abstained)

Deal, Barry - 850 Upper Mountain Road – It is Deal's understanding there is a Statue of Limitation on filing an Article 78. It is believed to be 120 days from installation of the tower. Deal asked Attorney Davis what the last day is to issue an Article 78 against Niagara County.

Winkley said this will be addressed under the Supervisor's agenda.

Several local residents have attended July, August and September meetings, but Niagara County, as it seems, has not attempted to move the illegal tower. We are running out of time to take legal action.

Deal asks the Councilmen and the Supervisor if they agree with this statement: "That there should be one set of laws for everyone, no matter how rich or no matter how powerful they are?" Deal asks if this is a legitimate question.

Brochey and Bax say yes.

For the Town of Lewiston there is one set of laws and that is the Town Code.

Deal asked Conrad if he contributed to the development of the Lewiston Tower Laws. Conrad said yes. Deal questioned Bax if he was involved; Bax said he was the Board Liaison. Winkley having a very distinguished career, would not object that it is proper to uphold the laws and codes of the Town of Lewiston. Winkley said yes.

Deal said these laws were put into place to maintain the safety and health of Town residents. The residents on Upper Mountain Road, close to the tower, would like their safety and health upheld by their elected officials. The codes are active and should be enforced in regards to the County putting in this tower.

If the laws are not enforced and the Board goes beyond the statue of limitations, Deal hopes all realize they will then be derelict in their duties, and there are consequences to that.

Erwin, Earl – 857 Upper Mountain Road – Erwin is also concerned with safety; how the tower is constructed, is it prepared for an ice load, the wind speed with the ice load, and the material of the tower.

Brochey said residents need to understand the Board is not sitting on this, but there are things that can't be discussed right now.

Attorney Davis said he is reluctant to pinpoint a deadline. There is a 120 day period; there is a 3-year and a 6-year statute of limitations that applies to certain causes of action. Lewiston may very well argue different theories; different causes of action, so Davis will lock into commencing this action 120 days from something that happened in July. The Board will take the best path for the Town.

That does not answer Deal's question. When the Board says the best path for Town, if you go beyond 120 days, and that is the deadline date to go approach the County, and you think that you have 3-years, and you find out in court, a year from now, that you don't have 3 years, you had 120 days, then what.

Bax does not believe that will happen. It will be a research decision that the Town has several causes of action to go forward. It wouldn't be on a wing and a prayer that Lewiston hopes there is a cause of action that falls outside of Article 78.

Deal suggests the Board be safe and issue an Article 78 so there is no question that the Town is vigilant and diligent in their duty to go after the County. Maybe it is just a matter of being on record that that is what your intent is.

Winkley said with the possible litigation, we will let the attorneys handle this.

Bax said the Board is on the resident's side with respect to this issue. The Town law needs to be upheld and the residents protected. The Board will do everything in their power to do that. What form that takes in the end will be a result of consultation with the Town Attorneys.

Conrad said the Town has had communications with the County working toward a resolution.

Brochey said the County is looking into the coast guard tower.

Davis said this is a County tower. The Town did not put up this tower. It is an illegal tower in the Town of Lewiston. Board members, the Building Inspector and Davis have all reached out to the County. They are exploring other locations for the tower.

Deal said the residents are hearing two different stories. They are exploring other places as a result as the Board's efforts. In July, at the fire hall there was a great discussion as to it taking three years of doing extensive studies and looked at every location and this was the absolute only locations. Deal is getting the impression that they are doing that now. Someone is not telling the truth.

Conrad said there were towers considered in the study they just did not move forward with them.

Deal heard that NYPA gave them approval to move forward and use their land, and they did not. Brochey said they didn't give them approval they just never denied it.

Bax questioned how many other towers within this network were built within a fall zone of a house. A resident said North Tonawanda.

Pardee, Gary – 5376 Bridgeman Road – Pardee has spoken to several of his neighbors regarding the funding for security at Artpark. With the many articles being printed it seems there is no definite conclusion to the subject. With Artpark not being owned by the Town but by the State it is considered a business. If it is, one should say, it is their business and they should have to pay for their own security. If the Town is paying for security, that means other businesses, Brickyard, Tin Pan Alley, bowling alley should also be getting this. Has any conclusion been reached?

AGENDA APPROVAL

**Conrad MOVED to approve the Agenda, Seconded by Bax and Carried 4 – 0.**

APPROVAL OF MINUTES

**Winkley MOVED approval of Public Hearing – 8/25/2014; RTBM – 8/25/2014; Town Board Worksession of 9/8/2014; RTBM – 9/22/2014; and Public Hearing/Worksession – 10/6/2014, Seconded by Conrad**

Brochey said at the meeting of September 22, 2014, Superintendent Janese received a complement from Mr. Deal; thanking him for the removal of a willow tree from his property and then landscaping the property. Deal said Janese couldn't have done a better job, excellent.

**Winkley MOVED to add this to the minutes of 9/22/2014, Seconded by Conrad and Carried 4 – 0.**

POST AUDIT PAYMENT

**Conrad MOVED to approve Post Audit payments to Home Depot - \$1,008.13; Key Bank - \$1,264.47; Sam's Club - \$364.50, Seconded by Bax and Carried 4 – 0.**

**Conrad MOVED to approve Post Audit payments to DeLage Landen - \$120.50; Leaf - \$455.80; Mountain Glacier - \$12.98; NYS Unemployment Insurance - \$1,441.80 and Niagara County Water District - \$146,117.25, Seconded by Bax and Carried 4 – 0.**

OLD BUSINESS

*CWM – County Legal Fee* – Kloosterman said this has been addressed.

*Modern Disposal Permit* - Davis said the Town has received the requested documents; they have been reviewed by CRA and offered opinions. Davis said it appears the local permit is ready to be approved.

**Conrad MOVED to approve the Town of Lewiston permit for Modern Landfill Inc. and Modern Recycling Inc, Seconded by Bax and Carried 3 – 0.** (Winkley recused himself)

NEW BUSINESS – CLERK'S CORRESPONDENCE

Item No. 1 – Approval and Resolution for Standard Work Day

**Conrad MOVED to approve 7.5 as the Standard Work Day for the Ordinance Enforcement Officer, Seconded by Bax and Carried 4 – 0.**

**Conrad MOVED to approve the Standard Work Day for Elected and Appointed Officials as follows: Supervisor Brochey - 6 hrs; Councilman Conrad – 6 hrs; Town Clerk Garfinkel – 8 hrs; Director of Finance Kloosterman – 8 hrs; Dog Control Officer Sherriff – 8 hrs. and Court Clerk Sicurella – 8 hrs; Dpt. Receiver of Taxes Norwich and Kilmer – 8 hrs, Seconded by Bax and Carried 4 – 0.**

Item No. 2 – The Town Clerk's Office will be sponsoring a food drive for the month of November with donations being taken to Heart, Love & Soul in Niagara Falls.

SUPERVISOR BROCHEY

LIAISON REPORT

*Artpark*

Brochey met with George Osborne, Artpark to discuss tipping fees and the police protection payment. Artpark knows Brochey will seek Board approval to keep the tipping fee money for the 2015 budget. In regards to police protection, Osborne does not feel the Artpark committee will pay.

The \$40,000 to be paid by Artpark was put into the Police Budget. If the money is not paid, the \$40,000 will be taken away. Chief Salada said he still has an obligation to the people that live in the Town and Village of Lewiston to control traffic.

Brochey said he is trying not to have a town tax. A town tax would not be that big of a burden on the residents, because there is no town tax now. Kloosterman said to stay under the property tax cap, the Town can raise approximately \$36,000. To go above that, the Board would have to vote to over-ride the property tax cap and that would have implications on the freeze law that went into effect.

Winkley clarified that Artpark is a not-for-profit organization, just like Kiwanis & Jazz Festival. Winkley is okay with the \$100,000 staying with the Town. Town will still net \$60,000. Winkley does not disagree that Artpark should pay. The Town can send them a bill; they don't have to pay it. These dollars should not have been put in as revenue.

Bax would like to see a consolidated policy for police protection for all entities that hold events, incorporated into their respective budgets.

Brochey questioned if the Sheriffs Dept. can use their auxiliary, for traffic control.

The remaining \$60,000 is in the A-Fund and will be used to support Recreation.

Brochey said he is not doing this as a threat; it is being done because the people in the Town of Lewiston could use the money. Many residents are fed-up for paying for police for Artpark, who at this time should be more self-sufficient. Artpark made close to quarter of a million dollars in 2013 – 2014.

Winkley said Artpark is a not-for-profit organization; they are not there to make money.

The town employees are requesting a minimum of 2% raise. The payroll budget is \$4.7 million; 2% of that is almost \$100,000.

Bax said the Town is trying to change its business model for the Town. One thing that is apparent to all is the way Artpark has been used to getting funds from the Town of Lewiston has changed; departments will have to adjust their business model accordingly. As much as Winkley wanted to make good on a promise through our budget, there were no promises this year. There is no less of a demand on Artpark to pay its fair share to the Town for the expenses that the residents incur on its behalf.

In respect to the expenditures for Kiwanis, Jazz Festival etc... these are one time events, Artpark is an enterprise, whether not-for-profit or not, it makes no difference. It brings a lot of revenue to the business owners, so in that respect it is a benefit. Just like all the entities in the Town we have to work together for the betterment of all. There should be a constructive conversation were there is mutual benefit. The Town is trying to be an active and willing partner in this negotiation. Threats are threats, and the only entity that will suffer will be Artpark. They have a simple solution for both sides and they refuse to entertain it or even consider it.

Kloosterman suggests the Board meet with Artpark. All members need to be in attendance, it is questioned as to what goes back to the Artpark board from the individuals in attendance at meetings Kloosterman has attended. Is there a mutual benefit that can be met?

Bax said if that is the case, he makes an apology for what he just said. Bax assumed everything that is discussed at the Board table is passed back to Artpark. If this is just a standoff without any real communication taking place, at no fault of the Supervisor, then this needs to be addressed. A public joint meeting should be scheduled along with residents.

Seaman suggests the Board do a motion to keep the tipping fees. Lewiston currently has a contract that obligates Lewiston to give the money.

**Conrad MOVED to keep the \$100,000 Modern tipping fee, to be used for reasons in the contract, Seconded by Bax and Carried 4 – 0.**

*Upper Mountain Tower*

Brochey said not much can be discussed because things will be happening in the future.

### *Joseph Davis State Park*

Brochey has spoken to Mark Thomas, NYSOPR. Brochey said he gave Thomas the impression the Town may want to get out of the deal with the park. This has not been approved with the Board but there is a savings if Lewiston gets out. Thomas said the State anticipated this and they are prepared to take over the park.

The Town is to clean up the old changing rooms. There is \$100,000 from Greenway funds for this.

Lannon distributed a proposal dated October 23, 2014 from Sienna Environmental Technologies. There are four buildings currently fenced off in the park. They are in a partial state of demolition. The Town started the demolition, then it was determined there was asbestos material within the building.

An asbestos variance was sought and obtained from the Dept. of Labor in 2012. Variance of this type is good for one-year so it has expired. The buildings have sat there since. The proposal is to reapply for the variance, pay the application fee, and present a budgetary cost estimate to do the demolition, assuming the Town receives the variance.

At this time with the estimate, it will be known if whether the Town needs to solicit three bids by invitation if the estimate is less than \$35,000, if over, it would need to be a public bid for the demolition and disposal of the material.

Lannon suggests the Board hire Sienna Environmental Technologies in an amount not to exceed \$2,000 to obtain the asbestos variance and prepare budgetary cost estimate.

**Bax MOVED to hire Sienna Environmental Technologies in an amount not to exceed \$2,000 to obtain the asbestos variance and prepare budgetary cost estimates, with funds from Greenway dollars, Seconded by Winkley and Carried 4 – 0.**

**Bax MOVED to authorize the Supervisor to sign the proposal with Sienna Environmental Technologies, Seconded by Winkley and Carried 4 – 0.**

### *Hunting – Joseph Davis State Park*

Since taking over the park, Lewiston has not allowed hunting in the park. Each year the Town of Lewiston holds a lottery for a special pheasant hunt for four Saturdays in October. Only those that receive a permit through the lottery are designated to hunt. Hunters are being told they can hunt small game at any other time. The Clerk is asking the Board to make a decision if hunting, other than the pheasant hunt, is allowed in the park.

All Board members agree to “no hunting” in the park. The existing signs, posted from the State, should be covered.

### *Police Union Negotiations*

The talks have been very successful. The coming year’s salary raise has been agreed upon at 2-2-1½-1½. The large savings will come with the insurance plan that was agreed upon. Kloosterman said it is a good deal for both sides.

### *Sewer Charge Refund*

DeHaven – 604 Sandlewood Drive is requesting a sewer refund for refilling his pool after damage repair.

**Bax MOVED to refund DeHaven – 604 Sandlewood Drive \$57.00 for sewer charge associated with 1900 cubic feet of water, Seconded by Conrad and Carried 4 – 0.**

The Water Dept. is requesting they be allowed to determine if the refund can be given without Town Board approval, like it was done years ago. Brochey said the qualified staff in the office can determine if this is acceptable.

Winkley does not believe the State Auditor would approve of office staff making the decision. Kloosterman said if there is internal control this could be done. All information is given to the department prior to being forwarded to the Board.

Darlene Schuey, Water Department Clerk was present at the meeting. It is her belief that past Supervisor Reiter changed this. If the staff can give the approval, it will cut down on time to place the refund on their bill. If the department denies the refund and the resident isn't happy, they can then ask for Board approval.

Winkley believes it should be left the way it is. Item tabled to allow Kloosterman to look into how a decision would affect the auditor.

LEGAL - nothing

ENGINEERING

Lannon submitted his Project Status for October.

Proposals received from National Grid for street lights on Legacy Drive. They need to be reviewed and will be placed on November agenda.

DOT Rt. 265/I-190 bridge replacement project from the waterline perspective, is nearing completion.

A Site Plan to be forwarded to department heads for comments on the pump station access on University Drive.

In regards to PRV Pits, Yarussi Construction has completed the work. There are a handful of minor items that need to be completed.

A draft Town Standard Specifications will be distributed to department heads for comments. The document will be revised and submitted for Board approval.

Oak Run Phase 3

In a letter dated October 23, 2014 to the Supervisor, Lannon reported the following:

All Town infrastructure; water, sewer, storm sewer, curbs and road are installed and complete. NYS Department Health approval received for constructed facilities in connection with the water and sewer system.

Final site walkthrough, with department heads was completed in early October. Letters have been received from Janese, Masters, Nablo, and Ritter endorsing the dedication of Phase 3.

The Final Plat Map – Phase III was filed at the county Clerk's Office on October 17<sup>th</sup>.

A project binder provided to the office of the Highway Superintendent for Town record. The binder includes CRA inspection reports, MS4 compliance inspection reports, field drawings, construction photos, and approved shop drawings. Janese to give to the Town Clerk.

Draft public roadway dedication description and drainage easement deeds have been reviewed and submitted to the Town Attorney for final approval.

The required 2-year Maintenance Bonds, in the amount of 50% of the value of the construction, have been submitted to the Town Clerk.

All underground utilities have been installed and site restored and stabilized.

Record drawings for Town-owned facilities have been reviewed and approved by CRA and submitted to the Town Clerk on October 23, 2014.

At the beginning of the project a deposit was submitted by the developer to cover CRA inspection fees. There are no outstanding monies owed by the developer.

Certain things have advanced in the years up till now. There are a couple, in Lannon's opinion, that are very minor administrative discrepancies based on standard practice in 1987 as to what is standard practice in 2014. The Town Code currently states the developer shall submit a Mylar of record drawing. Today it is all scanned, PDF, e-mailed and set out. The need for Mylar is really obsolete.

Current Town Code says "concrete monuments at property corners and a bench mark". Bench marks are a good idea, but the property corners can be, instead of concrete monuments can be iron pins.

Lannon would like the Board to consider updating the 1987 Subdivision Regulations.

Lannon asks the Town Board to consider dedication Oak Run Phase III, subject to legal review of the Bonds, and the language of the draft easements.

**Winkley MOVED to dedicate Oak Run Estates – Phase III, waving the Mylar and concrete monument regulations requirement, subject to Attorney approval, Seconded by Bax and Carried 4 – 0.**

## FINANCE

### *NYPA – Hydro Power Dollars*

The Board needs to determine the "end-user" for this money. Some options are; the Town, Village, Fire Departments or the residents. If the Board wants the Town of Lewiston, then name the Town of Lewiston; Town of Lewiston and the Village of Lewiston and someone else, all people need to be named. This can continually be revised, there is nothing stating this has to be once a year, this can be changed whenever the Board wants.

These dollars can be used for any energy commodity. Seaman said there are ways to name the end-user that will allow it to be used to cover the cost of energy commodities and energy related expenses. Brochey questioned if the monies can be used for Town vehicles. Seaman said the Board needs to designate who the ultimate users are, in a way consistent with the contract, which would allow the Board to do that.

Brochey looked to other Board members to see if they are on board with using the monies to help the fire companies with their utility bills with the remainder going back to the public.

Winkley said as long as Lewiston follows the rules, the monies can be used as designated correctly

The Board passes a motion dedicating the end-user and submits a resolution in writing Brochey said he was told to e-mail what the Town will be doing and it will take 30-days for their approval and it will be all set. Seaman said a resolution needs to be done.

Edwards suggests this resolution be created tonight, the Town is budgeting the hydro power money in the 2015 budget. The Town should not budget money it does not have.

Bax asked if it could be done as the Town of Lewiston and the special districts, and on a later date revise.

**Bax MOVED to designate Town of Lewiston, Special Districts and the Village of Lewiston as the end-user for purposes of the NYPA Contract, Seconded by Winkley and Carried 4 – 0.**

*Senior Van Bid*

One bid had been received in the amount of \$52,882.00. The Attorney reviewed the bid documents and all seems in order. The only deviation from the specs is in regards to the warranty.

Kloosterman suggests \$8,000 from H-39, and H-79 for the remaining dollars. There is an \$11,000 lease payment that is calculated into the current budget. This could be removed and lower the appropriations or the money could be put into the Senior Van Capital Account so every 5-year a new van can be purchased with cash.

**Bax MOVED to award the Senior Center Van to Gorman Enterprise in the amount of \$53,882.00, with \$8,020 from H-39, and the remainder of the dollars out of H-97, and authorize the Supervisor to sign the contract, Seconded by Winkley and Carried 4 – 0.**

Kloosterman is requesting an Executive Session for a consultation with the attorneys for legal advice, and a discussion on personnel.

#### *Employee Health Benefits*

Kloosterman updated the Board. He met with the town health provider. It is basically the same for non-union employees. There are two plans being offered. There is a 6% increase in one and 7% on the other. Employees will be meeting with the health provider to pick their plan.

In the past the Board has left the decision on the type of health benefits and items up to the Finance Director and Barb Cich, Supervisor's Clerk. Kloosterman is asking if this Board is okay with this.

There are several levels of HRA's and flex payments that are distributed, depending on the class of employee. It is being proposed to change it to a straight HRA account for \$600. This is a zero cost to the Town. This will allow a broader range of use of the money. Some employees, who pay their percentage of their health insurance with these flex dollars will not be able to do that. This would also simplify the record keeping aspects. It needs to be researched if this affects the Employee Handbook.

Winkley suggested meeting with the employees first.

#### *Tentative Budget & Adjustments*

The Board needs to schedule a Public Hearing by November 6<sup>th</sup>. With time restraints for publication, the hearing can be held on November 5<sup>th</sup> or 6<sup>th</sup>.

Kloosterman has five entries/adjustments to address. They have a net zero affect or helping an appropriation within the budget.

Bax had a meeting with Highway Superintendent Janese regarding his budget. With looking at Janese's figures, Bax was told the straight time budget for highway personnel is underfunded by \$90,000. Kloosterman disagrees. The equipment and salt budget also need to be discussed.

Conrad has heard from department heads they would like to voice/defend their proposed budgets. Kloosterman said the main issue the department heads have, is pay raises.

After the tentative budget was approved, Kloosterman received a different line item for the Niagara Power Coalition, Greenway Host Committee. Monies will be placed into a line item on the Budget Officer Contractual to help out with an administrative program for the power allocation money.

After a discussion regarding election inspectors, it was decided to add additional dollars.

An entry was done to decrease the appropriations in the A-Fund by \$2,934.

**Winkley MOVED the following changes to the Tentative Budget: Debit – Niagara Power Coalition - A00-1420-0400-0200 - \$6,446 and Credit – Budget Officer Contractual - A00-1310-0400-0000; Debit – Elections Inspectors – A00-1450-0100-0000 - \$500, Debit –**



**Elections Contractual – A00-1450-0400-0000 and Credit – Budget Officer Contractual – A00-1310-0400-0000 - \$620; Debit – Transfer from other funds - A00-1000-5031-0000 - \$2,934 and Credit Budget Officer Contractual – A00-1310-0400-0000 - \$2,934; Debit – Police Equipment – B00-3120-0400-0000 - \$16,000 and Credit – Police Personal Service – B00-3120-0100-0000; Seconded by Bax and Carried 4 – 0.**

Bax addressed the \$5,000 decrease in the Lower Niagara River Chamber's budget. The Chamber does a great job for the Town, and would like to see it reinstated.

**Bax MOVED to reinstate \$5,000, Debit – Lower Niagara River Region Chamber – B00-8989-0432-0000 and Credit Appropriated Fund Balance – B00-1000-0599-0000, Seconded by Winkley**

Kloosterman asked where to get the funds from. Winkley said they need to be found, that is why this is a Preliminary Budget. Kloosterman said an opposite side of the entry needs to be found.

**Carried 3 – 1.** (Brochey voted nay – he has been working on this with Kloosterman and is still trying to work on raises for Town employees)

Winkley understands the Board is trying to avoid a town tax, but unfortunately by not giving the staff that works at the Town Hall a pay raise the burden is being put on them. They are a very important part of the Town. They will be losing money. It has been negotiated with the Police for a 2%, and others in unions got 3%. It is a bad precedent. Brochey said the 3% was done three years ago.

Winkley is willing to give up a 5% reduction in the Board's pay towards that. That would be \$5,000. Brochey asked if this included him. Winkley said 5% across the Board. Brochey said he wouldn't mind if he was working 14/hours a month. He is working 50 – 60 hours a week. That would be very harsh for the amount of time Brochey puts in. If you do a comparison of what each Board member is getting an hour to what Brochey is getting an hour, it's like \$56/hour to \$10/hour.

Kloosterman said if the Board gave an increase to non-union employees it would be an increase of approximately \$32,000. Winkley said Department Heads would not be included.

Bax said the unions have representation and they receive cost of living raises.

Kloosterman said taking the last couple of years into account, the cost of living and inflations is about 1.5%. The past 3% raises have been above the cost of living. The Town of Lewiston has the highest paid employees in Niagara County, and to continue this trend will be difficult. It is the intention to get this budget balanced and then come up with a long term plan to get the salary increases in place.

Bax requested moving ahead to the highway budget. Bax has discussed the budget with Janese. Bax told Kloosterman, given the budget numbers and conversations with Janese; the budget would need to be discussed further.

Janese asked if there would be any lay-offs. Brochey said that is not the plan.

Janese said he has 16 full-time employees. Their straight-time wages is \$894,000, but the wage line in the 2015 budget is \$803,000. There is \$130,000 in snow removal personnel; Janese is assuming this is for the additional cost of snow removal based on the \$200 average per year, that's \$123,000.

There are three budget lines for personnel in the highway department, Mechanical Repair - \$60,000; General Repair - \$743,000 and Snow Removal - \$130,000.

There are four large departments in the town. In one department, funding went down 3.3%, another department funding went up 1.7%, the third department went down ½ %, and the highway department was cut 17%.

This cut is simply unsustainable. Unless the Board wants to lay off people, there is no way Janese can use this type of personnel money.

Winkley asked if the Board's budget is not enough to cover the base salary of 16 people. Janese said for 16 people the budget is \$91,000 short.

Kloosterman said he covered 15 full time plus the auto tech which is the 16<sup>th</sup> person. They are fully funded with 54 weeks (they get two weeks of vacation buy back), and \$75,000 worth of over-time for additional snow removal. Over the past three years, the highway dept for snow removal has averaged \$71,000 in overtime. Kloosterman feels this is more than adequate.

Outside of snow removal season, there are many individuals working Saturdays and Sundays picking up brush. The budget is proposing to not work over-time outside of snow removal season. There is more than adequate funding then.

Janese would like someone to show him when the Highway Dept. ever worked on a Sunday to pick-up brush. The answer is never.

Winkley said the question is "Do we have funding for 16 people"? Kloosterman said yes.

Janese said the typical over time average for snow removal is \$200/man. These are Janese's calculations. Janese suggests sitting down with Kloosterman with some help from one of the Councilman.

The Town typically purchases 3,000 tons of salt per year. Salt has increased 27%; it is on a State bid. 3,000 tons would be approximately \$190,000. If the Town purchases this the budget needs an additional \$40,000. Pure salt needs to be used on State and County roads in order to comply with the contracts.

Another budget line cut of 23% was in Machinery Repair for Parks. This is a very old fleet. Replacement equipment line is very far behind.

The budget line for the building and grounds maintenance was cut by 40%.

Other than the fact that we have changed the way money is being given out for permanent improvement. In the past it has been \$100,000 every year, being supplemented by the power authority money in the summer. This year it is being done different.

This department provides pretty much all the services that residents receive. For 28-years the Town has picked up leaves, and it has required over-time to stay up with it. There is a high demand for brush pick-up. It was suggested the brush be picked-up once a month. Janese can't imagine the calls he'll get when someone cuts a tree down, puts it out, and it sits there for a month. Those are not the types of services our residents are used to.

Leaves can become a hazard; residents place them on the street, not on their lawn.

Not long ago there were 21 employees in the department, there are now 16. Janese has not had a full crew since he started 5-years ago. Two are off on long-term disability, another off with an ankle injury. Janese said if he had enough staff, or use people to pick up brush on a daily basis and still get the other work done, the over-time would not be a factor. Nevertheless, when behind, Janese is the one that fields the phone calls. The highway department is trying to provide a quality service, which is what the residents want.

Conrad asked about the reimbursement from the State and County. Janese said the reimbursement does not come back in the same year.

Janese has heard, "they have double bought salt", this has never happened. People ask why there is salt in the salt barn. Janese says unfortunately it is not going to stay 70° until January 1<sup>st</sup>. There is 400-tons of salt in the barn. There is 108 miles of road; it is 40-tons of salt. This means there is enough salt to do the roads 10-times. Last December crews went around 4 times in one day. We are not that far ahead.

Janese needs some way to make up the difference in salt and labor. These are imperative dollars. It can be funded now or if money is spent take it out of fund balance later. This is not a time for politics; it's a time for prudence.

Brochey has spoken to Janese about this several times. The Village has one large pick-up, day and month. The residents know when the pick-up is and that is when they put it to the curb.

Janese said the amount of brush generated between the Village and the Town is phenomenal. How does Janese know this? He stores both of them. Hundreds of thousands of yards of brush is ground. There is a cost to all this. If someone thinks the Village is bringing as much brush as the Town perhaps they should be billed for it.

Brochey questioned Janese if he is billing the private companies that come with their brush. Janese lets landscapers who do work in the Town, as long as they give a valid address, yes. Residents tell Janese that the landscaper will charge them to it down to the Highway Dept, so the residents tell them to set it at the street because it gets picked up for free. How do you argue with that?

Winkley said this can't be done in the Village.

Janese said he knows, but there are no rules. It is not in the Town Code. A grinder is brought to the garage, this is free and they take a percentage of the wood chips. The remaining is left to be reduced to mulch.

The Highway Department provides so many ancillary services, trimming trees, picking up x-mas trees, delivering garden mulch, etc... once these services are offered, who knows what residents, will say if the town only picks up once a month.

Winkley said the options are: residents can keep the ancillary services or they can pay for them with a highway tax. It is the only option. Yes the Highway Department does do everything. The Village has cut services instead of raising costs.

Janese said right now the Highway Department is taking the brunt of the cut this year, \$290,000.

Kloosterman said the Highway budget is not decreasing by \$290,000; it is a 1.5% decrease from the finalized budget for 2014. The 2014 budget is going to be \$2.9-million, and 2015 it's going to be \$2.8-million. The 2015 highway budget is a 21% increase over the past three years.

Janese said this is not in the operational budget. The Finance Director is talking about every time the department receives additional money for paving. In the last six years, \$100,000 was put into the budget, the following summer when the NYPA funds came available; a certain percentage was put aside for paving. In 2014 Janese requested \$100,000 but was given \$300,000 and told that is what he needed. That is why the budget supposedly went down a short amount.

Kloosterman said that is not true. The budget comparison is from the finalized budget. There was \$293,000 in paving. The paving budget is increased by \$7,000 in 2015. With that being said, there is approximately 1.5% decrease in funding.

In regards to employees, Kloosterman said in 2005 there were 17 employees in the highway dept, 2007 – 16 employees and has stayed there continuously since then.

Janese said the number one call for service in the department is for brush pick-up. Those are the ones that call, that is in addition to fifteen, twenty or thirty people who know if they simple put it out there, in three or four days the Town will pick it up.

Janese challenges anyone to look back at any spending done by him, and tell him how it is the least bit wasteful.

Winkley doesn't think its wasteful spending, just might be a service the Town may not be able to afford. A policy to not accept contract's brush might help.

Janese said he doesn't know who cuts it down, should he go to the door and ask the resident who cut it down. Janese told Brochey that could be his job. Brochey told Janese he sees him driving around all the time. Janese said that is his job.

Janese asked the Board again where he will get the \$40,000 for salt. Kloosterman said he was not provided with past year data, regarding tonnage therefore left it where it was.

Janese said every year, an order is put in for rock salt. If you request 1,000 tons and you need 1,200, they do not have to provide it. You have to put in a request for the amount you need. Last year the Town requested 3,000 tons, but used more than that. They are under no obligation to provide the Town with rock salt.

Bax hopes the Board sees why he wanted to have this conversation with Janese. The Town is \$40,000 behind in salt and \$28,000 behind in salary.

Brochey asked Janese about the recent promotion of two employees from Laborer to MEO. Janese said he has one employee left at Laborer because he is not qualified. Janese said he didn't have a single Laborer, and the people he lost were MEO's. Janese needs people who can drive, and operate equipment, not people who can use a shovel.

Winkley asked who will do the shovel work when it is needed. Janese said one of the operators will. The contract reads, if someone is on the job for more than 3 consecutive days, they get the pay rate of an MEO.

Conrad questioned the use of seasonal employees. Janese said the union contract would have to be looked at, and suggests the Board have one of the Attorneys review the contract.

Kloosterman said there is not enough money in the Town of Lewiston. The highway budget was looked at hard. It has increased 21% over the last 2 years. At this time it is being proposed the budget decrease by 1.5%. There is enough money in the labor wages for all 16 employees to work and enough money for over-time for snow removal. There is money for paving and to properly run this department within reason.

Janese requests to sit with Kloosterman, Supervisor and a Councilman, take out a calculator and do the numbers.

Kloosterman compared Lewiston to the Town of Wheatfield and the Town of Lockport, all are identical in size. These other towns have brush pick-ups that are limited with a policy and procedure for leaf pick-up. These are important policies and procedures to put into effect that can really affect the budget.

Janese said he has a better idea, give him the funding and let him be the Highway Superintendent this year. Let him decide what services to try and get in and what can be taken care of. If the Board does not fund brush pick-up, it will not be picked up. This is not the Town of Porter, or Hartland, Newfane or Lockport, it is Lewiston. Once you begin these services people begin to expect them. If there is no funding gentleman, there is no funding. Janese will leave it in the Boards wise hands.

Brochey said a highway tax can fund the additional salt cost. Janese said if the Town wants to put a town tax in place and use that title that is fine.

Winkley asked Janese if there is anyway he can help, be creative with a different plan. Can you find \$40,000 somewhere else? The Board is trying to help Janese; other departments came up with ideas to hold their budget. Janese said sure.

Brochey asked if rent can be charged for the trailer that is in the garage area. Janese said this has been discussed already. O'Connor Electric has two storage boxes in the garage. They have not been there in a few months. The Town received a Release of Liability, about a year and a half ago. Janese will file it the Clerk's office.

What O'Connor has done for the highway garage is put in three poles, 3 lights and the wiring in the yard, which is equal to approximately \$7,000 of in-kind services. They were going to do a fourth pole for the police range, but the Supervisor said it is better to do it later.

Janese said if the Board does not want O'Connor there, it is very simple, ask them to leave. It would be embarrassing to Janese if they put in a \$2,000 pole, and then two days later ask them to leave.

Brochey asked Janese if the installation of the poles or the agreement was ever brought to the Boards attention. Janese said there is no agreement and this was brought to the prior Boards attention. Janese and the other Board did not have a problem with this.

Winkley asked Janese to provide the insurance release.

Janese said if the Board is looking for places where you absolutely do not have to spend money to get through; the equipment line could be one. It was \$100,000, then cut to \$50,000, if the Board had to, it could be cut to zero.

Bax suggests \$40,000 be moved to salt and \$10,000 to General Repair – Personnel.

**Bax MOVED to transfer \$40,000 from Highway Equipment to Snow Removal Contractual the salt line, Seconded by Winkley and Carried 4 – 0.**

Kloosterman distributed to the Board the total wages of the Highway Dept. including safety bonus and sick time, at a total of \$952,000. When broken down \$743,000 – General; \$15,000 – Seasonal; \$65,000 – Machinery; \$130,000 – Snow Removal.

Janese disagrees with the figures; there is a lot of money missing. The average rate of pay is over \$25/hour. Each gentleman will be paid for 2,160 hours that is 2,080 at straight time plus take two weeks payment/comp/vacation. This is an average cost of \$55,900/man times 16 employees is \$894,400. The total budget is \$743,000 plus \$60,000 for mechanical personnel that add to \$803,000.

Kloosterman said the department is getting \$953,000 in salary and Janese is now saying he only needs \$894,000. Janese said this is with out the \$130,000 for snow removal.

Edwards is confused, these numbers are not adding up. (all spoke at the same time)

Brochey and Bax asked Janese, Kloosterman and Davis excuse themselves and go to work this out.

Janese requested addressing a few items before. Moyer Magnetics has finished the Muckland Pump. It has been installed, tested and is up and operational. The preliminary invoice has been received for \$25,800. Janese will forward warranty papers to the Town Hall.

Moore Road was recycled and paved and should last a couple years.

There are paving dollars left in the budget and Janese requests to use them on some smaller projects this year. Janese requests the Board consider rolling the money over into 2015. Janese is not sure of the remaining amount.

Kloosterman suggest rolling the remaining money into Capital Account, and then reallocate it in 2015, to be used for paving only.

**Bax MOVED to turn-over remaining 2014 paving dollars into a Capital Account to be used exclusively for paving in 2015, Seconded by Conrad and Carried 4 – 0.**

Janese was contacted by Mrs. Savard, Advanced Design Group. Savard is the engineer for a project being built by Jerauld Wolfgang on Lower River Road. Savard asked Janese about the total length of a road with a cul-de-sac. Janese said as the Highway Superintendent there is no objection. Janese would like to include the Town Engineer, Masters and the Fire Bureau in a discussion before any answers can be given.

Lannon said current standards, in the Town Specifications say the depth of a cul-de-sac is 600 feet. Lannon understands Fire Inspector Pat Martin wants it to remain at that depth, for safety purposes. There is only one ingress and egress in the 600-foot cul-de-sac of this proposed subdivision.

Bax said the project needs to follow Town process; therefore each department will have the opportunity to address this concern.

Janese is receiving calls regarding the pipe in Riverwalk. Brochey said he has spoken to Mark Thomas of NYS Parks, and the final decision on this is in Albany.

Brochey received a request from a resident on The Circle asking a speed limit sign of 30 mph be posted. Janese to take care of.

Kloosterman, Janese and Davis left the meeting to discuss the Highway budget.

## TOWN HALL

Concrete at the front entrance to the Town Hall had a tripping hazard. Janese was asked at the September meeting to report back to the Board with an estimate for the work. Janese called Arist Concrete Lifting LLC, and they raised the area of concern, but the same needs to be done closer to the doors.

Masters requests if the contractor comes back to do additional work, the concrete at the west entrance also needs to be addressed.

The bill for the work has been received and Edwards suggests this be paid from H-97.

## TOWN BOARD MEMBER APPOINTMENT CLARIFICATION

The individual elected at the November 4<sup>th</sup> election, for Michael Marra's seat, will be appointed at the November 10, 2014 Worksession.

## CLERK'S OFFICE & TAX RECEIVER CONSOLIDATION

Brochey told Garfinkel the idea to consolidate the two offices is a good one. Garfinkel is confident this will save the Town money and help the office move smoothly while collecting all fees and charges in one office.

Winkley said this has been discussed with Attorney Seaman. A special election can be held, it is not tied to the end of the Tax Receivers term.

Seaman said if the Board wants to move in the direction of exploring and taking the Receiver of Taxes off the ballot, abolishing the position and consolidating the duties with the Clerks office, the following is necessary: Board member introduces a local law to abolish the Tax Receiver position, hold a public hearing and vote on it as a Town Board. If the Board votes yes, the next step is a mandatory referendum, because you are eliminating an Elected Office. This could be done with the General Election in November 2015. If done then, someone will be running for the office that is also on the ballot to be eliminated.

Another option is; in the local law specify that a special election will be held as a mandatory referendum at a certain time. This could be done early in 2015.

Winkley feels the cost to have a referendum would more than make up for it in the savings of consolidation.

Garfinkel said Stephens is a full-time employee with benefits. The Clerk's office now has a part-time Deputy, which will be made full-time and hire another part-time employee. Garfinkel believes the savings would be approximately \$20,000 - \$25,000.

Garfinkel is also in the process of working on on-line payments which will decrease the amount of residents coming to the office. This consolidation will have every dollar that is brought into the Town, taken in at a department with five people.

Bax, Conrad and Winkley said this makes a lot of sense.

Garfinkel asked the Board if they have a good feeling about this and want to start the process. Winkley said if Garfinkel is comfortable.

Bax requests Seaman draft a local law.

Winkley suggested a special election be held as early as possible in the year.

Seaman said when Stephens retires, the Board will have an option to fill her position or not. If not filled, the Deputy Tax Receiver automatically, by statute, assumes the duties of the Receiver of Taxes.

Garfinkel asked the Board if they are comfortable with making part-time Deputy Town Clerk Linda Kreps full-time in December. Winkley asked if she will receive benefits. Garfinkel said she will have benefits, but the salary is lower and she will pay 20% of her health insurance. Winkley said ok.

Garfinkel would like to hire the other part-time clerk as soon as possible also. They will receive no benefits, and start at a lower rate.

Conrad asked what will happen to the Deputy Tax Receiver once all responsibilities are in the Clerks office. Seaman said if the referendum passes and the elected office of Receiver of Taxes and Assessments is gone, there would be no deputy position available.

Brochey said she would be losing the title; she will still be doing the same job. Winkley asked if it would be Civil Service. Garfinkel said she's entitled to three deputies, so she would then become a Deputy Town Clerk.

#### COUNCILMAN BAX

The DOT responded to the Town regarding a request to lower the speed limit on Townline Road. The DOT will not reduce the speed, but will install a 45 mph advisory speed limit panel. Along with increasing the size of the stop signs on the east and west bound traffic on Lower Mountain Road.

#### *Northridge Drive Street Sign*

Residents on Northridge request that three street signs be changed from North Ridge being two words, to Northridge being one word. The Highway Department can make the correction.

**Bax MOVED to have the corrected signs be installed by the Highway Dept., Seconded by Winkley and Carried 4 – 0.**

#### *Joe Davis Park Equipment – Recreation*

There are several vehicles being housed at Joe Davis that need to be declared surplus. The Recreation Dept. is asking to secure bids for immediate removal.

**Bax MOVED to declare the following vehicles as excess equipment: 1994 Chevy Dump – 1GBHC34K5RE287511, 1997 Ford Utility – 1FDHF35H4VEC03545 (97-11), 1998 Ford Eco Van – 1FDHF35H4VEC3545, 1995 Chevy 2500 – “The Pickle” and one unknown year – (H-62), Seconded by Winkley and Carried 4 – 0.**

It was asked the department report back as to what was done.

#### COUNCILMAN CONRAD

## LIAISON REPORT

### *Light Request – North Hewitt Drive*

Awaiting correspondence from the Lighting Advisory Board.

### *Oak Run Subdivision – Phase III Dedication – already addressed*

National Grid had prepared a quote for two lights to be installed.

**Conrad MOVED to authorize two high-pressure sodium lamps and traditional luminaries on 12' black direct-embedded fiberglass poles at an annual fee of \$200.18, and authorize the Supervisor to sign the agreement, Seconded by Bax and Carried 4 – 0.**

Brochey has had conversations with Masters regarding forming lighting districts for each development. This will have residents in the development pay. Lannon said street lights in the public right-a-way, according to National Grids tariff, have to enter into a contract with the Town of Lewiston. It will not enter into a contract with the developer, due to longevity.

Masters said there are potentially four subdivisions coming next year and they will all require streetlights. Every time a subdivision is approved the cost goes up to the taxpayers. Masters suggests the cost of the light be reimbursed by the developer to the Town. A lighting district is created by the Town Assessor and it will then be paid by those that live there.

Seaman said if the NYPA dollars are going to be used for the street lights, then no special districts are necessary.

### *Massaro – LMK Realty Association – Sign Variance*

Masters submitted a memo to the Board questioning the legality of a “temporary variance” for the Massaro sign on Legacy Drive. Seaman does not like the term, but the Zoning Board of Appeals has the ability to grant a variance and set conditions on a variance. The Zoning Board set a condition of temporary variance for a time limit. The Town Board does not have the power to review the decision of the Zoning Board.

The Town Board does need to give permission to have the sign on Town property.

**Conrad MOVED to allow Massaro to keep the sign on Town property until May 15, 2015, Seconded by Bax and Carried 4 – 0.**

## COUNCILMAN WINKLEY

### *Police Resignation*

**Winkley MOVED to accept the resignation of Officer Hagop Otabachian, Seconded by Conrad and Carried 4 – 0.**

### *Police Hire*

**Winkley MOVED to hire Alex Rouck – Part-time at the Contractual rate, Seconded by Bax and Carried 4 – 0.**

### *Addition to Upper Mountain Fire Co.*

**Winkley MOVED to add the following to the Upper Mountain Fire Co. roster: Copland, Brent; Gallegos, Adam; Nelson, Ebony; Jacobi, Janelle and Bialkowski, Jason, Seconded by Bax**

Brochey questioned the address of one of the fireman as being California. Winkley said this is a Niagara University student.

**Carried 4 – 0.**



**Bax MOVED to enter into Executive Session, Seconded by Winkley and Carried 4 – 0.**  
(10:20 pm)

**PRESENT:** Supervisor Dennis Brochey; Councilmembers Bax, Conrad and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Highway Superintendent Janese; Finance Officer Kloosterman

Discussion: Legal consultation regarding the employment of particular individuals.

**Winkley MOVED to exit Executive Session, Seconded by Conrad and Carried 4 – 0.** (10:58 pm)

After working with Highway Superintendent Janese, Kloosterman suggests the following changes to the DB account: General Repairs - \$820,000; Seasonal Help - \$15,000; Machinery - \$15,000, Snow Removal - \$75,000. Janese will only put overtime for snow removal in to this account, which is an additional \$25,000 of funding. For a total \$975,000 for labor.

Janese said, if for whatever reason the highway department has to go over that overtime for snow removal, he will be asking the Board for additional dollars.

**Bax MOVED the following for the Highway budget: DB account: General Repairs - \$820,000; Seasonal Help - \$15,000; Machinery - \$15,000, Snow Removal - \$75,000, Seconded by Conrad and Carried 4 – 0.**

**Bax MOVED to accept the Preliminary Budget as amended, Seconded by Conrad and Carried 4 – 0.**

**Winkley MOVED to set the Public Hearing for the Preliminary Budget for November 6, 2014 at 6:00 pm, Seconded by Bax and Carried 4 – 0.**

**Conrad MOVED to adjourn, Seconded by Winkley and Carried 4 – 0.**

Transcribed and Respectfully Submitted by:

Donna Garfinkel  
Town Clerk