

SEPTEMBER 22, 2008
5:30 p.m.

Regular Town Board Meeting

Present: Supervisor F. Newlin; Councilmen A. Bax; S. Edwards, M. Johnson & E. Palmer; Dep. Sup. E. Elgin; Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; WPCC Admin. T. Lockhart; Finance Officer A. DiRamio; Police Chief C. Salada; Hwy. Supt. S. Reiter; Code Enforcement Officer K. Kenney; 6 Residents; 3 Press; and Dep. Clerk C. Schroeder

The Supervisor opened the regular meeting at 5:45 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS STATEMENTS:

Harry Winters, 752 Ridge Road, came before the Board to ask why the Town's Water Department has not disconnected its line from his private line. He was promised in July that it would be disconnected in September. Mr. Winters provided a copy of his deed for the Attorney's review. Newlin said they would discuss this under his agenda (Legal).

Tom Deal, 5314 Elm Drive, recognized and thanked Councilman Palmer for his hard work and dedication working with County Legislators in attempting to come to a fast and favorable solution to the problem that voters incurred on Primary Day with the changes to and the elimination of several polling sites in hopes that it can be rectified by the General Election.

Paul Hutchins, 5013 Callan Drive, came before the Board to address a problem he and his neighbors are having with one particular neighbor with the number of dogs they have and the nuisance they create. Currently there are 14 dogs at the house that the owners tie-up out front. The dogs continually bark and disrupt the neighborhood. It's been a real issue this summer. Hutchins said he's contacted the Dog Warden who has issued several warnings. There is still continuous barking all throughout the night. He asked if there is something that could be done that would alleviate the whole block of neighbors with this problem. Newlin said he would contact Mr. Hutchins the following day and address this with him.

Pat Vinson, 5878 Buffalo Street, said he wanted to know what was decided at the last meeting on the feral cats roaming the corner of West St/Niagara St. in Sanborn. She owns a business on Niagara St. A man came into the shop and threatened to shoot, trap and poison the cats and informed her that the Town Board gave him permission to do so. Newlin assured her that that did not happen. Newlin said he, and Chief Salada, would give her a call the next day to see what can be done about the cat problem.

Lucille Turner, 5106 Country Club Trail, asked if the Board will be going forward with the Grass Cutting Law. Newlin said they will be getting some language this evening from the attorneys. Unless there is some major change, they will accept the language tonight and set a public hearing for the next meeting.

AGENDA:

Palmer said he wanted to re-visit a matter under Old-Business re dogs. Edwards said he had a matter to address in Executive Session re Personnel (Drainage).

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

MINUTES:

Johnson MOVED to approve the minutes of 8/25/08 (RTBM) and 9/8/08 (Worksession). Seconded by Bax and carried 5-0.

POST-AUDIT:

Johnson MOVED for approval of payment to Home Depot \$315.09; Office Max (HSBC Business Solutions) \$1,087.32; and Sam's Club \$1,073.93. Seconded by Bax and carried 5-0.

Johnson MOVED for approval of payment to Fusemail \$80.19; N.Y.S.D.E.C. \$7,500.00; Niagara County Attorney's Office \$12,775.93; Oce Financial Services \$575.00; Progressive Business International Credit Recovery \$299.00; and Totalcomp Scales, Inc. \$9,782.31. Seconded by Palmer and carried 5-0.

OLD BUSINESS:

Stop Sign – Northridge Drive: This was in response to a request for the placement of a stop sign at the bottom of the hill on Northridge Drive. The Supervisor said the Board is in receipt of a written opinion from the Police Chief. He asked Chief Salada to comment. Salada said their letter indicated that their main problem was a “speed” problem. You don’t use stop signs to slow people down. There have been no reports of accidents. There is sporadic traffic that it is difficult to run radar but there have been patrols sitting in the area since the request has been raised. Salada said it would be his suggestion that lower speed limits be posted around the curves or lower the speed limit on the entire road.

Palmer said you cannot put a stop sign on a road that doesn’t have an intersection. It’s not really technically an intersection because it enters into a parking lot -- a private roadway.

When asked, Salada said he would recommend lowering the speed to 20 mph.

Bax MOVED to reduce the speed on Ridgeview Drive from 30 to 20 mph, between Rt. 104 and East Eddy Drive, pending review by the State DOT. Seconded by Johnson and carried 5-0.

Grass Cutting Law: Leone said the Town Board has a copy of the proposed local law before them. He has reviewed similar laws from other communities. Frankly, I think the one you have in front of you is about the best that you are going to get. Leone said there are some very minor, grammatical changes that he is going to make. By and large what you have in front of you is what you are going to get.

Johnson MOVED to set a public hearing on the proposed local law to prohibit the growth of weeds, grass, etc. on Monday, October 20, 2008 at 6:00 p.m., Seconded by Bax and carried 5-0.

Tree Removal Issues: Edwards said he has been informed by Supt. Reiter that his department would remove the dead tree located in the median on Michelle Court.

With regard to the tree located in the “green space” behind 768 Michelle Ct., Edwards said it is a large white ash with three major trunks. It is rotted at the base. Reiter said he would try to remove the tree with town crews but that there is a possibility of damage to several fences in the event that the branches don’t fall where they are intended to fall. Edwards said he wanted to make the Board aware of this. Reiter said he anticipated this work to be completed in 2-3 months.

Dog Issue: Several months ago, Palmer said he discussed putting together a town ordinance limiting the number of animals in certain residential communities. It’s still an active issue that he will be pursuing with Attorney Boniello to draft some language. He will report back at the next meeting.

TABLED ITEMS:

Street Lighting: Coach Houses @ Ridgeview. Leone said it was his recollection that two street lights were approved to go along Northridge Drive. It is his understanding that the area of concern is within the complex itself. That is a private drive. The Town of Lewiston has no obligation or ability to light that area inside. If that is the area where the vandalism is occurring, they would need to contact the Homeowners’ Association or developer.

NEW BUSINESS:

Clerk's Correspondence:

Item No. 1 was a request from the Town Clerk to transfer \$50.00 from A1450.0400 (Election Contractual) to A1620.0400 (Town Hall Contractual) to cover transportation costs incurred from the Primary Election.

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

Item No. 2 was a request from the Receiver of Taxes & Assessments to place the following unpaid water and sewer accounts for the Town of Lewiston on the 2009 Town and County Taxes:

Water:	\$ 85,757.21
Sewer (Master)	\$ 60,318.38
Sewer (South)	\$ 11,623.81
TOTAL	\$157,699.40

Bax MOVED for approval. Seconded by Johnson, for discussion.

Johnson: I have a note here from the Assessor's office. This is starting to become a very big burden for them to put these on the tax rolls... Should the fine be more money to offset the cost of the Assessor's office putting this on the tax rolls? They have to bring in part-time people because it becomes a burden to them. Right now, we charge a 20% penalty for those people who do not pay their bill...

Bax: Did they give you any suggestion as to what percentage of the bill would offset their costs? People who are paying their water bill shouldn't be subsidizing people that don't. If we could come up with an assessment or a fine that would mirror the expense associated with putting it on the tax roll I think that would be fair.

Johnson: We're going to meet with the Department Heads when we sit down for their budgets. We can have them explain to us what the burden really is.

Motion carried 5-0.

Item No. 3: The Pekin Fire Company is celebrating its 75th Anniversary during 2008. They are seeking advertisements for its Anniversary Documentary Booklet. Advertisements are due no later than October 17.

Palmer MOVED for approval of a ½ page Ad for \$75.00 from the Celebrations Account. Seconded by Bax and carried 5-0.

Supervisor Newlin:

Legal: The attorneys said they would discuss litigation matters in the Executive Session.

Boniello said he had an up-date on an issue raised earlier in the meeting by Mr. Harry Winters regarding a matter on his property. Mr. Winters, after discussing some options with Supt. Reiter, agreed to allow Supt. Reiter to rectify Mr. Winter's concern. Boniello said he is going to prepare a document allowing the Town to enter property owned by his daughter. Both Mr. Winters and his daughter are going to sign a release allowing Supt. Reiter to work on private land. Reiter said he would complete the work within 1-3 months.

Engineering: None

Polling Sites: At the last regular meeting, Newlin said he brought to the Board's attention the fact that polling places had been moved without the Town of Lewiston being included in that process. Newlin said he spoke with officials both on the County and State level. Today, alone, he spent 2 ½ hours trying to get to the bottom of this. On the one hand, I feel Lewiston was short-changed being one of the larger towns in Niagara County and seeing how many polling places it got after this change from the County. For example, the Town of Wheatfield, which is smaller than the

Town of Lewiston in terms of population and in geographic area had 10 different polling places, now they have five different areas to cover the Town of Wheatfield. Lockport – which has about 1,000-2,000 more people than the Town of Lewiston has 14 different election districts (Lewiston has 13). They had nine polling places, we had eight. They have been reduced to five. We have been reduced to three. That is a very big hit on a Town our size. In comparison, the town of Porter has two polling locations, with a population of about 6,000-7,000 people. With 20,000 people, Lewiston only gets three. Newlin said he would like to see the County take some action here and stopping that.

Newlin said State Election Law is very specific when it comes to how new polling places should be designated. Quoting from the Law, §4-104 -- Every board of elections shall, in consultation with each city, town & village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. Newlin said he has spoken to a number of supervisors in other towns in Niagara County. To their knowledge, they have never been consulted with. No member of this Board has been consulted by the Board of Elections as to the assignation of new polling places. Newlin said there was some give-and-take between some of the clerks and the Board of Elections but nothing formal. Our Town Clerk cannot produce any check-list for recommendations for polling places.

This is a serious matter. This all stems from HAVA (Help America Vote Act). When I first criticized this plan a month ago, I was lambasted by a news-site (blog site) for criticizing the County's plan to consolidate election districts and save money. There are plenty of places that the County can save money in terms of consolidation but elections -- where they expect 80% turnout with massive amounts of new voter registration -- is not the place to be saving money making sure that the franchise is extended properly and thoroughly to all the residents of this County. It's a very active Presidential Election as well as local election. There are people all over the board who have a stake in this and for the County not to consult with the Town... They've had to hear my criticisms and other board members' criticisms. Mr. Palmer sent some correspondence over to the County Legislators. They should be consulting with us not the other way around.

I've been given assurances from people outside the Board of Elections that the polling places would be adjusted differently from what we saw in the Primary. I've gotten a lot of complaints from election inspectors and voters saying they would have to drive somewhere between 10-16 miles to get to their polling place. With gas prices up, it's not helping people to increase their distance to the polls.

Newlin said he would like Attorney Boniello to examine the Election Law that designates changes of the polling places and pursue any legal re-course if we don't see some consultation with the Town. We should be looking seriously to protect the voters' rights here in Lewiston in Court if we don't see any satisfaction from the Board of Elections.

Palmer: In my two years on the Board, no issue has raised the ire of voters in Lewiston, in my opinion, than the moving of the polling places. Everyone I talk to is really upset over this issue. This was a solid, bi-partisan effort on the part of the Town Board to go forward and attempt to get the Board of Elections to change their minds as to what happened on Primary Day... I'm getting the sense that there are going to be some changes made although no official decisions have been made. It's just a ridiculous concept to actually dissuade people from voting, especially during a presidential year.

Boniello: I'm suggesting that you vote on a Resolution asking them (BOE) to meet and consult with us and come up with a change within the next 10-days.

Newlin MOVED the motion. Seconded by Bax and carried 5-0.

Edwards: I don't know how the Board of Elections is going to receive this resolution or anything we say. They haven't considered anything we've said to this point. I would like to prepare for the Election and if we could, use our Senior Van, as well as the Village's, to bring seniors to their polling spot if they choose.

Path Resolution: Newlin introduced a Resolution authorizing the implementation and funding of a Transportation Federal-Aid Project, for the construction of a new Multi-use Pathway, appropriating \$210,000 for funding of this project.

WHEREAS, a Project for the Construction of a new Multi-Use Pathway, from the existing pathway at Devil's Hole State Park in the vicinity of the Niagara Falls North City Line through the Town of Lewiston, to an existing pathway at Mohawk Street in the Village of Lewiston, known as the Lewiston Scenic Pathway Project, PIN 5757.79, ("the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the appropriation of the costs of such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

WHEREAS, the Town of Lewiston desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering and Right-of-Way Incidental phases of the project PIN 5757.79.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Lewiston hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Town Board of the Town of Lewiston hereby authorizes the Town of Lewiston to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering and Right-of-Way Incidental phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$210,000 is hereby appropriated from account A-1000-3830 and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the amount required to pay the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering and Right-of-Way Incidental phases exceeds the amount appropriated, the Town of Lewiston shall convene its Board as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Supervisor of the Town of Lewiston be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the Town of Lewiston with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, that this Resolution shall take effect immediately.

Newlin MOVED for approval of the foregoing resolution. Seconded by Bax and carried 5-0.

Councilman Bax:

Liaison Report: Bax said he, and Councilman Johnson, attended a meeting at the Senior Center whereby Director Jeannette Collesano had reported that she would be over budget with her utilities. She was asked to compile some data on a monthly basis and present this to the Budget Officer.

The seniors would be holding a Ballroom Dance on Friday (9/26) at the Senior Center at 7 P.M. A silent auction will be held at the beginning for anyone wanting to attend and support the seniors.

CWM CAC: Bax said one of the items that came out of the CAC meeting was a concern from a citizen with regard to traffic in front of Lewiston-Porter during the Pre-K drop-off and pick-up time. Bax said he spoke with Chief Salada who indicated he is patrolling that area religiously between 8-9 a.m. and agreed to extend that to 9:30-10 a.m. to make sure there are no infractions and that the kids are safe.

Also, there will be a letter from the CWM CAC with respect to information just released by the NYS DEC as well as a number of different issues the committee is dealing with.

Modern CAC: Bax noted that the next Modern CAC Traffic Committee meeting will be held on Monday, Sept. 29.

Newlin said he got calls from three committee members that they may have to re-schedule.

Bax said there is some urgency with getting together. Newlin asked the Clerk's office to call the committee members to make sure there would be a quorum.

Notice of Claim: Bax said he would address this in Executive Session.

Councilman Edwards:

Highway: Edwards reported that the parking lot lights are repaired. The Highway Dept. did the excavating and restoration of the front law as well as the pedestrian path between the parking lot and entrance to Town Hall.

Sanborn Sidewalks: Edwards said he had a request from a resident at 5851 Buffalo Street with respect to a deteriorating sidewalk at the approach to his driveway. Some sidewalks, Edwards said, have been replaced by the State and some have been replaced by the Town. Are we going to repair all those sidewalks for the State? Whose responsibility is it? If it is our responsibility we need to budget monies appropriately.

Johnson said he is under the impression the town applied for a "streetscape" grant. Edwards said the application was refused. Grant Writer Bernie Rotella said the grant that was submitted the dollar amount was too high. It didn't fall within the guideline of the streetscape. When the next round comes along, the town could reapply, although he did not think sidewalks would qualify under the streetscape guidelines.

Lannon said he would contact the DOT to determine who is responsible for the maintenance of the sidewalks in the State R.O.W.

Councilman Johnson:

Assessment Review Board: Johnson referred to correspondence from the Acting Assessor noting the term of Barbara Carter Expires 9/30/08. She is a State certified member of the Board and has been a competent member.

Johnson MOVED to re-appoint Barbara Carter to the Assessment Review Board for the term 10/1/08 – 9/30/2013. Seconded by Palmer and carried 5-0.

Councilman Palmer:

Liaison Report: The LNRRCC is proceeding with several festivals and events that they sponsor or co-sponsor throughout the Fall. The Jazz Festival was more successful than in years past even without the sponsorship of the Power Authority. Other people stepped up to the plate and really helped out. The next event is the Harvest Festival 9/27-9/28. He commended the Chamber for doing a great job in promoting Lewiston.

Executive Session:

Newlin asked for a motion to enter into executive session to discuss litigation matters; a contractual matter; Notice of Claim; and Personnel (Drainage & Dog Control).

Bax MOVED to enter into executive session. Seconded by Johnson and carried 5-0. Time: 6:55 p.m.

*Executive Session:

Time: 7:00 p.m.

Present: Newlin, Bax, Edwards, Johnson, Palmer, Boniello, Leone, Lannon, Elgin

Also Present: Dave Sherriff, Dog Control Officer

Issues Discussed:

1. Contract Issues
2. Pending Litigation
3. Potential Litigation
4. Personnel Issue

Motion by Bax to exit executive session and reconvene regular meeting. Seconded by Johnson and carried 5-0. Time: 8:40 p.m.

Action Taken:

1. Authorized Supervisor to execute SPCA Contract, with Addendum, as amended, included as part of contract.

Bax MOVED to adjourn. Seconded by Johnson and carried 5-0. Time: 8:45 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk

*Executive Session minutes taken by Attorney David Boniello.