

Present: Sup. S. Reiter; Council Members A. Bax, M. Marra, E. Palmer, & R. Winkley; Attorneys M. Dowd & M. Davis; Eng. R. Smith; Adm./Op. J. Ritter; Highway Supt. D. Janese & Town Clerk C. Brandon. Also present Grant Writer B. Rotella. 3 press reps and 12 residents.

The Supervisor opened the meeting at 6.00 p.m. followed by the Pledge of Allegiance. A moment of silence was observed in memory of Assemblyman J. Ceretto's father and Code Enforcement Office R. Portale's father who recently died. Also as it is Memorial Day weekend, please remember your family past and present and members of our armed services.

**RESIDENTS:**

Rose Mary Warren of 5824 Griffin Street. I had written to the NYS Comptroller's office and I received a phone call from them regarding things that the Town had done or not done. My main concern was JDLDC budget with regard to \$100,000 for consulting work. I wished we had tried to get someone in Niagara Co. on this. I felt the \$10,000 in the budget for miscellaneous was too high and too big. The next audit should give the Comptroller's Office as to what to look for.

Regarding the ice rink, I requested the cost of workers on 1/29/12. I have gone round and round trying to get information on it. I spoke with Mr. Dashineau and he indicated that it takes time to get the information together. I did not want the names of the workers and I don't know any of them. On the top of my FOIL request I only wanted the number of workers. I was told that another person knows the payroll figures. I also wanted the total of the utility costs. Mr. Johnson stated that the information could be sent to me but I said I would pick it up. A note stated that the costs would be \$3.50. I decided that I would take it but I found that one page had the names of the people were on it. I didn't want that. All I really wanted for the utilities was the total on one page. What again am I paying for? Mr. Johnson stated that our computers print it that way. I should not be punished for having to pay for things that I didn't ask for. The Town should have eaten these 25¢ pages and just given me the two sheets. I was disappointed with this.

**AGENDA:**

Marra: Addition/Senior Center

Winkley: Request for an executive session for software contract and for litigation regard property.

Reiter: I am going to assign Mr. Bax & Mr. Marra to a program that I would like them to investigate; change order for Elm/Annover project and an executive session concerning the paving of Old Military Road and other issues there.

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

**MINUTES:**

**Palmer MOVED for approval of the minutes of 4-9-12 P.H. re Comp Plan/Zoning; 4-23-12 RTBM; 4-27-12 Emergency TB Mtg. and 5-14-12 PH re Rezoning (Tim Horton's). Seconded by Marra and carried 5-0.**

**POST AUDIT PAYMENTS:**

**Palmer MOVED for approval for Home Depot \$341.81; Sam's Club \$1,452.48; Wal-Mart \$79.00; Joe Basil Chevrolet \$9,530.10; Cintex Contracting \$1,900.00 and NYSDEC \$500.00. Seconded by Marra and carried 5-0.**

**OLD BUSINESS:**

Procurement Policy:

Bax: We have our old procurement policy back on the table and Mr. Johnson will discuss it.

Johnson: When the auditors came in they discuss with us different issues on purchases. In the Recreation Dept. we would be buying certain things for certain teams and so when added together it is the same vendor that you buying from but they were in different purchases. Our policy that was set up was adhered to when they were bought in bulk. The State procurement policy is being evaluated right now which was up to \$20,000 in purchases while ours is starting at \$2000-\$5000. This policy was put together by our Auditor, Pat Brown. He thought it was much clearer and more helpful to us keep purchases in line.

Bax....so our policy is more stringent. But weren't there some things that we were criticized for in our own policy?

Johnson: One of the State auditors suggested that Mr. Dowd talk with Mr. Morrison of the State to see what the breakdown is. With the state bids there are many advantages in checking the prices. The auditors want us to use a purchasing sheet that we created.

Dowd: We were criticized by the State for having a more strict policy then what the State requires. We can keep our policy in place for specifics that you want to maintain and otherwise those that we want to use from the State we can adopt that and follow the others as long as you follow whichever one you adopt. I will talk with Mr. Morrison and report back to you.

**NEW BUSINESS:**

1. Patricia Vinson of 5878 Buffalo Street, Sanborn. Her issue is the noise problem in Sanborn. It seems that the police feel that the noise ordinance as written is not enforceable. I am requesting that the town attorneys please take a look at it and see if this is a problem and if so how can it be fixed.

Reiter said that several police agencies have said that the ordinance is too vague and not enforceable.

Winkley stated that the Village ordinances are different in that it has decimals in it.

**Marra MOVED to direct the Town Attorneys to investigate this issue and report back to the Board. Seconded by Bax and carried 5-0.**

**REITER:**

Legal:

Dowd: We do want to schedule the Public Hearing for the possible condemnation of the Legacy Drive end. I have delayed moving to have that for the timing and today is the time to direct the Clerk to file the public notice. I do have a resolution which I think we have already adopted so if we can get that advertised for the 25<sup>th</sup> of June at 5:45 p.m.

**Winkley MOVED to hold a Public Hearing on 6/25/12 at 5:45 p.m. for the possible condemnation of Legacy Drive. Seconded by Bax and carried 5-0.**

Dowd: I would like the Board to adopt a resolution. We have already done this and it is in the minutes and the resolution was sent to the attorneys on the bond. They sent me a different form and they asked that we adopted. They changed something in the bond that was just delivered to me today to borrow the money for the Water Improvement Area. Once this resolution is adopted we can legally go to bonding. I would ask the Board to adopt a resolution authorizing the bonding for the Water Improvement Area, Annover/Elm. It was sent to me this afternoon by email and I was able to get it printed out before I came tonight from Mr. Goodfriend. We have already adopted one. He sent a new one which is the same dollar amount and nothing has changed.

**Bax MOVED for the Resolution authorizing the Town of Lewiston to issue bonds for the Elm/Annover Drive Water Line project. Seconded by Marra and carried 5-0.**

Finance:

2011 Independent Audit:

Brandon: You need a resolution to be adopted so that it can be forwarded to the State Comptroller's Office and the Office of Court Administration.

**Palmer MOVED to accept the 2011 Independent Audit as prepared by Brown & Co. LLC and copies be sent to the State Comptroller's Office and the office of the Court Administration. Seconded by Winkley and carried 5-0.**

Dept. of Transportation Grant/Senior Van:

Rotella: We are submitting a grant to DOT for a Senior Van (a bus) and given I have turned in a resolution to submit this application for 80% grant funded program. Our Town Attorney is right now looking at some DOT compliance issues that need to be accepted, a different standard. Tonight I am looking just for approval of the resolution to submit the application.

**Winkley MOVED that the Supervisor be authorized to file a grant application for funds from the NYS Dept. of Transportation for the purchase of a 14 seat passenger senior van. Seconded by Marra and carried 5-0.**

ENGINEERING:

Smith: In regards to the Elm/Annover Water Line Replacement Project, I am going to recommend the Town reconsider the approved bid for asphalt restoration work. In light of the dirt disturbance of the existing road, the new work would just call for a mill repaved echo to repave.

Reiter: He is asking for an approval of a change order.

Smith: I do have the amounts on there. I believe I gave you a copy. There is a detailed engineering and a cost analysis to do the work. It would be a one inch mill and 1½ inch overlay.

Palmer asked why that happened.

Smith: This is based on what we saw there and the road is observed to be pretty disturbed and while we are doing the new water line in the road to go ahead and pave the whole road as part of the project.

**Marra MOVED to accept the change order. Seconded by Bax and carried 5-0.**

Johnson asked if that was part of the bonding that we are going out for.

Dowd said that is what I just asked. It is \$120,000.....

Reiter: We will have to adjust that.

Dowd: Will we have to adjust the bond amount?

Reiter: No.

Dowd: Will we have adequate funds to pay for it?

Reiter: We will have adequate funds to pay for it.

Palmer: Where are the funds coming from?

Reiter: They are coming out of the paving budget

Smith: I have one other item. I received a letter from Mr. Marra regarding the curb/gutter damage at Riverwalk S.D. I visited the site and it is apparent that there is damage, re-bars exposed, concrete is falling and numerous cracks etc. Based on your decision, what I can do is incorporate into the sidewalk installation replacement project

that we are going to undertake and based on that letter that I sent to you all last October there were sidewalk defections I was asked to put together a bid package to replace those sidewalks. I can just incorporate those curbs into that.

Palmer asked if that was the Town's responsibility.

Smith: Yes.

Palmer asked if that was the only one that is going to have a problem.

Smith said there is only one little section. Probably 15 feet.

Dowd: The sidewalks I think we are going to be using the escrow fund. The curb is not going to be coming out of the escrow. It won't be the same job. The curbing is not in the escrow. You cannot use the escrow funds for curbing...

Smith, I just recommended that while you are doing the sidewalks why don't you just replace a little section.

Dowd: Be careful to make sure we only use the escrow funds for the sidewalks. You can separate it out.

Reiter: You have to separate them. We have an escrow account for the sidewalks. We can bid out so the contractor does that and when it is priced out for the curbing it would have to come out of different fund.

Dowd: I think maybe we will have to do an alternate price.

Reiter: There is no action taken on that.

Status of Work Sessions in June, July & August:

Palmer: As has been the custom for several years here and in other area governmental bodies, the work load seems to diminish in the summer time for the amount of things that we have to vote on. So, we normally do not hold work sessions in the summertime, although we do reserve the right to hold special meetings as need dictates.

**Palmer MOVED to schedule just Regular Town Board Meetings the months of June, July & August as are already scheduled and hold special meetings as needed. Seconded by Marra and carried 5-0.**

Audit of Claims:

Brandon: This is a request from my department as to do you want to continue the policy that the claims are ready on what would have been a work session day and have the councilman assigned to it to still come in to review them and pay them and then the official approval at the regular town board meeting. That is what you have done in the past.

**Bax MOVED that the abstract of claims be reviewed and paid with the official approval given at the regular board meeting for the months of June, July & August. Seconded by Winkley and carried 5-0.**

Reiter: Under my amended agenda, I would like to ask Mr. Bax & Mr. Marra if they would look into a company that came forth to talk to me. They are called Cascade Engineering and what they do is put the larger bins that roll out so we can do our recycling every two weeks instead of once a week. They have a price list in here and I would ask that it remain confidential at this time because there are competitors. They also show different designs. I would also ask that you look into whether that would be...with the rising costs of refuse now and as I look around at some of these other communities that have many bags of garbage. If we were more standardized we could save some money. They propose a 96 gallon container that rolls out. I just ask you to investigate to see if worth our interest and see if they are any public interest.

Marra asked if it was for recycling and garbage.

Reiter said for both and they can be colored coded with different designs and different pricing.

There are some paving problems up at Old Military Road that I need to discuss with the Board and see what action we might have to take concerning the Power Authority.

PALMER: I have a letter from a resident on Cayuga Drive who lives between Creek Rd. Ext and Route 104 where there currently exist 2 street lights. This resident wrote this letter because of the theft of a mailbox and over the years some other criminal mischief and theft of outdoor decorations. I went out and looked at this area and there are currently 2 streetlights. One of the lights actually sits across the street and over one house from where they live. I haven't been there at night in quite some time, so I don't know if that light is functioning or not. I am not quite sure if a street light is going to solve this particular problem. I would like to request that the Police Chief to have the midnight shift maintain frequent patrols on the 600 block of Cayuga Drive and watch for any kind of suspicious kind of activity related to mischief or theft. If there are problems with the street lights, we should take action on that. I will check that out myself. I don't know if a street light there is going to be the answer.

Winkley: It says in the letter that the streetlights are blocked by his own trees.

Palmer: The streetlight that is there is not blocked by trees. I will talk to the owners personally. I don't think at this point that it needs to go to the Lighting Cmte.

WINKLEY: Nothing at this time.

BAX:

Mr. Janese would like to address the Board.

Janese: A month ago we received \$93,000 in FEMA reimbursement from our wind storm last year. The Board made a Resolution, \$75,000 in one fund and \$18,000 in another. After that, Mr. Johnson said the accountant decided to place in the fund balance. If the date of the check was prior to or after a certain date, I would simply like to follow that Resolution, the \$93,000 and place it back in the accounts that the council did once.

Johnson: It was \$25,000 and \$68,000. \$68,000 was to go to DB5110.0400 and \$25,000 to DB.5110.0400 Personal Services and you did vote on it at that meeting. When Pat Brown did the audit he said that anything that came in prior to March 1st had to be accounted for because this loss was in 2011, Those monies had to be transferred back in 2011 to help get through the budget of 2011. So, that is why that was done that way through the auditor. There is nothing I can do about it.

The only thing you might be able to do for him is take some of the fund balances. He has \$279,230 of unrestricted fund balance in there now and if you want to take some of that and move it over. Unfortunately, we have to use some of that fund balance to offset the....the sale of pipe is down because we are not selling pipe, I guess. There is cost of insurance and things like that that are going up like health insurance, workers comp. They sent us a check because they got audited and found out they were charging us too much money.

Bax asked if that would meet your needs Mr. Janese?

Janese: Yes. Just so you know gentlemen, that when we do sell pipe, we sell it to the homeowners at cost and there is no stream of revenue there. I keep hearing about revenue. Actually, every one of those jobs that we did we would add stone to it and it was actually a loss. So if you talk about pipe and revenue in our pipe sales it simply is not the case.

Johnson said we put \$20,000 in his budget for it in 2012. So we have to make that up somewhere. If we are losing money and we are not selling pipe, then we should take it right off the revenue line.

Janese: It is not really revenue, gentlemen. I buy the pipe and give it to the homeowners for the exactly the same costs. Then I buy more pipe and again give it to them at costs. Basically, we are buying something and giving it to our residents, so there is no revenue there to account for.

Bax: So you said the motion would be to transfer \$68,000 plus \$25,000 out of Highway Dept. General Fund balance to those dedicated budget lines.

Johnson said I think you have to hold a public hearing to adjust the budget for 2012.

Dowd: To transfer a fund balance? I don't know if you are just transferring and it is already in the budget. We have transferred from one budget to another. You would be amending the budget because you might need.....

Reiter: You would be increasing the budget.

Dowd: You might have a public hearing. It is at the Board's pleasure.

Reiter said I would ask that we let the attorney look at it before we make a decision.

Dowd: If you were increasing the budget you would have to have a public hearing. You are transferring money.

Johnson said it was his understanding that you would have a public hearing and you could do it at a meeting. You are changing his budget.

Winkley: We are changing the budget line.

Johnson: When you are changing a budget line, you taking something that I have extra money in and putting it into another line.

Janese: The Board can either follow that resolution or have a public hearing or whatever their pleasure is.

Winkley said we should not be losing money on the pipes.

Janese: We are not. We buy this pipe for a specific use and when the residents have a pipe installation, we would provide the pipe to them at our costs. All they were doing is paying back for the pipe we already purchased. There was no additional funds to be made, there was no revenue, and there was a loss.

Palmer said for accounting purposes it has to show up as revenue because we were showing an expense.

Janese said you probably should show it as a reimbursement of an expense rather than revenue. Revenue would be some funds that were actually taken. Whatever, the Board decides to do; there is no source of "revenue". It is a reimbursement of our costs that we out layed.

Tree Replacement Program:

I am asking Mr. Rotella to apply for a grant which is a matching grant for replacement trees. I was hoping if there is anything left in my budget we could spend a couple of thousand dollars on trees. Our payback time is 30 or 45 days and we would have our money right back into our budget. We lost 100 trees throughout the Town with the 2 storms. One time the Town did have a program and I thought perhaps you would try to do that again.

Rotella: If you are going to cancel the June W.S. I will need a resolution to submit that. The grant request is 50% matching funds up to \$25,000 in "green" funding. The grant must be submitted after June 11<sup>th</sup>.

Janese said funds will come out of the Highway Dept. budget. The trees would not be put in until Oct. or Nov.

**Marra MOVED to permit Mr. Rotella to submit a grant for 50% matching funds for the Dept. of Forestry program for replacement trees. Seconded by Bax and carried 5-0.**

Janese asked if you advise me on what happens in your Executive Session regarding Old Military Road. The Power Authority contacted me on what we may have to do there and whatever the Board decides to do, please let me know.

Also, if we are taking money for the Elm/Annover paving, is that the Highway Dept, paving budget? (Reiter-that may be.) So when we sit down and do our T284 we will probably address it then. (absolutely)

MARRA;

Part-Time Senior Services Aide:

**Marra MOVED to allow the Senior Center to hire for the position of Senior Services Aide at 19½ hours per week at the rate of \$12.00 per hour. Seconded by Winkley and carried 5-0.**

Joe Davis Park:

Reiter: I have asked Mr. Lou Giordano to give us an update on Joe Davis State Park.

Giordano: I want to bring you up to date on what the status of our negotiations with State Parks. We got a letter on May 11<sup>th</sup> from Executive Director Andy Beers after our meeting in Albany. Basically, in summary saying they would agree to extend our cooperative agreement with them to 20 years. They have accepted our notion of improving the park based upon a plan that we submitted and asked us to move forward with a negotiation over that agreement. We had a meeting at the regional office this past Friday, the 18<sup>th</sup>. Members from Parks were their 3 attorneys. From the Town of Lewiston, Sup. Reiter, Mr. Dowd and from the JDLDC was Mr. Nolfie and myself. The long and short of that meeting was we agreed to draft a memorandum of understanding (MOU) which Mr. Dowd has worked on outlining the steps that need to be taken to extend that agreement and it outlined the process that we will have to undergo in complying with SEQRA for any of the items in the improvement project that may require additional or supplemental review. So, essentially with the combined efforts of Sen. Maziarz, Assemblyman Ceretto, and of course this Board, and members of the LDC we were able to reach a mutually agreeably understanding with Parks to move forward with Joe Davis.

Reiter: Mr. Dowd has put together an example of a MOU. It is in my office and I would ask that at your convenience you come in and look at it, so we can approve it at the next meeting. Once, again, the key point....first of all we do have lead agency status for SEQRA and the other point is that the 20 year operating agreement will be a starting as funding and the projects are approved not until. We will work under the current agreement and I am hoping that we can go through that and operate under the current agreement and then as we get our approvals and the funding becomes available then we have applied for and received from the Greenway that we can move forward and then go into a 20 year agreement.

Giordano: I can clarify a couple of those issues. There are a whole list of items or specific projects if you segment them in our plan that do comply with the Master Plan. They basically stated in their letter to us that we can move ahead on those projects under the current operating agreement. It is only the projects that aren't specifically addressed in the current Master Plan that will require additional SEQRA. We are scheduling a workshop meeting with Parks to review those specific projects. There are various levels of study that will be required. Each and every one will require a public hearing,

Reiter: The Town Board members will be invited to all of those workshops and you may attend as you see fit.

Bax: Are we going to need to go back to the Greenway because we are doing this in a piece meal method?

Giordano: No, I don't think so. It was part of an understanding with the Greenway Agreement that there maybe some segmentation of that project.

Reiter: When we made that presentation, we told them that was based on whether we would get approvals from the State Parks and it would not be all at once. We received consensus of the project within the Greenway.

**Marra MOVED to adjourn to Executive Session. Seconded by Winkley and carried 5-0.**

Time: 6:55 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon  
Town Clerk

**Executive Session:**

Present: Sup. Reiter; Council Members Bax, Marra, Palmer & Winkley; Attorneys Dowd\* & Davis & Budget Officer Johnson.

Issues Discussed:

1. Computer Consultant

**Winkley MOVED to exit the Executive Session and reconvene. Seconded by Marra and carried 5-0.**

**Winkley MOVED to approve the contract for computer consultants, Harris 79K, ¼ annual subject to Attorney approval. Seconded by Marra and carried 5-0.**

**Motion to adjourn made by Winkley and seconded by Marra and carried 5-0.**

Time: 7:40 p.m.

\*Minutes taken by Atty. M. Dowd.



