

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Atty. M. Dowd; Atty. M. Davis; WPCC Admin. J. Ritter; Police Chief C. Salada, Bldg. Insp. T. Masters; Finance Director M. Johnson; Highway Supt. D. Janese; 3 Press; 50 Residents and Dep. Clerk C. Schroeder

The Supervisor opened the Worksession at 6:00 PM. Councilman Palmer led the Pledge of Allegiance followed by a moment of silent reflection. Reiter asked if there were any additions to the agenda.

AGENDA:

Additions:

Bax: Post-Audit Payments, WPCC Matters

Palmer: Resolution re NYPA

Winkley: Transfer of Monies for Legal Fund

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

Reiter said there are a lot of residents present concerned about the funding for legal counsel to fight CWM. He deferred to Palmer for comment.

Palmer: As most of you in this room know, there has been some recent publicity regarding the legal contingency fund the Town has and uses for different various legal obstacles it runs up against. In the proposed budget for 2014, the Supervisor included \$100,000 in the contingency fund for legal. In the past, we have paid significant amounts of money to the County to help fund the legal fight against the Waste Management application for expansion. As most of you in here know, this Board has consistently opposed expansion of Waste Management. I don't think any of my colleagues feel any differently today than they did before. I personally see no problem at all continuing to fund the fight and continue to retain the services of an attorney thru the County.

However, I will say this. We need to think about a partnership here. This shouldn't be incumbent completely upon Town of Lewiston residents to fund this effort. Truck traffic traveling to CWM travels not only thru the Town of Lewiston but travels thru the Town of Niagara, Town of Wheatfield, Pendleton, Cambria and Wilson. I would like to see a partnership with these other Towns wherein they contribute at least as much as we contribute, and also with Niagara County. With that being said, hopefully the same level of scrutiny will be applied to some of these other Towns, as well. Personally, I am in favor of a creation of an Environmental Protection Fund out of our legal contingency to continue our fight against expansion.

Reiter: We did put \$100,000 in our legal contingency fund. I would ask that an appropriate portion or a minimum of half of that be put in a designated Environmental Protection. I would ask that the Board give me permission to write a letter to the County. Also, I feel that our state officials have been negligent on this also. Why should a small Town like Lewiston have to fight this on their own? I do feel that our state officials have not supported the Town of Lewiston and have not gone out of their way to protect us. I do feel that the County has also done the same thing. They've asked us to help fund this but the other twelve towns should also have to provide a portion. It isn't fair that Lewiston taxpayers pay twice. They pay once thru their County taxes and will pay thru their Town taxes.

I would asked the Board to approve a motion to set up an Environmental Protection Fund from the Legal Contingency Fund and that the Board meet with Clyde Burmaster, Vice-Chair of the County Legislature and to have Mr. Abrahams come talk to the Board as to what services he is going to provide.

Palmer MOVED the motion. Seconded Bax and carried 5-0.

ABSTRACT:

Bax MOVED for approval of the regular Abstract of Claims #3404 to #3729 and recommended payment in the amount of \$1,227,050.75, plus a Post Audit of \$109,118.08. Seconded by Marra and carried 5-0.

POST AUDIT:

Bax MOVED for approval of post-audit payments to ComDoc - \$311.00; Interstate Chemical Co - \$755.00; Key Bank - \$104.96; John Dusenbury- \$2,115.00 and Royal Sealcoating - \$4,960.00. Seconded by Marra and carried 5-0.

2013 Grass Cutting Taxes: Per the grass cutting law, there are 70 different parcels cut in the Town. The total fee is \$9,208.75, plus an Administration fee per parcel, totaling \$7,000.00. The Building Inspector requests these fees be placed on the Town and County taxes for 2014.

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

HVAC Contract: **Winkley Moved to extend the contract for one-year with D&M Refrigeration to provide HVAC preventative maintenance services for the Lewiston Town Hall and Lewiston Senior Center at \$2,147.28/yr. Seconded by Marra and carried 5-0.**

Upper Mountain Roster: Winkley referred to a request from the UMFC to add the following individuals to its active roster: Theresa Masello, Michael McDonald, Brianna Sullivan and Jared Wojciechowski.

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

Justice Court – Purchase of Tree: Bax referred to a request from the Justice Court. Monies were collected by Town employees to purchase a tree and plaque commemorating the services of Ronda Koban-Sortore who passed away during her service as Lewiston Justice Clerk. A request is made to the Town Board to supply funding for the purchase of the tree. The collected funds will be applied to purchasing the plaque with the balance forwarded to Ronda's family. A tree planting ceremony and presentation will be scheduled and the board's attendance is appreciated.

Bax MOVED to purchase the tree, Seconded by Palmer and carried 5-0. Funds to be allocated from the Supervisor's Account.

Tax Receipt Fee: The Receiver of Taxes is requesting a Town Board resolution permitting her to collect a \$5.00 fee for a duplicate tax receipt.

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

Riverwalk Drainage: The Board of Directors of the Riverwalk Association regarding the drainage problem that has adversely affected a number of resident. The Board would like to voice their support of the residents (of 530, 534, 538, 540, 544, 548 and 550 Riverwalk Drive) in their quest to resolve the water problem behind their homes.

The Engineer said he would send a survey crew the next morning to get pertinent information to finalize plans. Equipment and material would be mobilized to the site.

Special Use Permit: The Planning Board on September 19, 2013 approved a request from James Coble, Willco Auto Care, for a special use permit to incorporate 2840 Niagara Street with his business at 5882 Ward Road for use as an automotive sales and service facility. The Pl. Bd. recommends approval with the condition that there be no more than 2 cars for sale at any time.

Palmer MOVED to issue a Negative Dec. on said request, Seconded by Marra and carried 5-0.

Palmer MOVED to schedule a Public Hearing on November 4, 2013 at 5:45 p.m. to consider the Special Use Permit request from James Coble. Seconded by Marra and carried 5-0.

Maldonado Subdivision: The Planning Board on September 19, 2013, approved a request from Kathy Maldonado, 883 Upper Mountain road to purchase property from Mrs. Wallace Moll that is currently part of a 59.8 acre Planned Development, SBL #102.00-1-14.1 to combine with her property at 883 Upper Mountain Road. The Pl. Bd. advises that the two recent subdivisions from the planned development will require a redesign of the development in the future.

NYPA: The NYSDOT submitted four (4) copies of a Preliminary HC 140 utility agreement for the Rehabilitation of I-190 and NY Rte. 265 Bridges over the NYPA Reservoir. The Town of Lewiston's involvement in this project consists of the removal and relocation of two 24" water mains. The Design Build Contract is expected to be executed in late November.

Marra MOVED to authorize the Supervisor to execute the agreement, Seconded by Bax and carried 5-0.

Code Book Amendments: Atty. Davis said the amendments would be ready by month's end. They are still working on issues within the Fire Prevention Code.

Sanborn Sidewalk Project: Eng. Smith said this project is on hold.

Street Light issue on Buffalo Street: The Board reviewed correspondence from National Grid with respect to a report that the Town-owned post top street lights on the west side of Buffalo St between Tallman St. and Rte. 31 were out. NG checked their connection on Pole #6-1 and the connection was fine. NG crews checked the fuse in the hand hole near the base of this pole. The fuse is owned by the Town and is blown. NG will not replace this fuse. NG crews did notice, however, that there are a couple of new trees that were planted in this general area; this may be the cause.

Highway Supt. Janese said he would contact the electricians who initially did the electrical work, Walck & Kroening.

WPCC Matters:

1. Chief Operator Jeff Ritter said the 5 – 60kw generators that were replaced during the electrical upgrade are in too good of shape to scrap. He requested the Board declare them Surplus.

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

2. New hire Operator Lee Allan has proven himself as a valuable asset to the Operations staff. Jeff Ritter is recommending that Mr. Allan receive the pay of WWTP Operator Trainee in lieu of the 24 month waiting period to reach regular rate of \$24.09 hr. per CSEA Union Contract.

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

Tuscarora Nation: Bax said he would be meeting with the Tuscarora Nation on 10/15 at the Tuscarora Nation Center.

NYPA Resolution: Palmer offered the following resolution for adoption:

WHEREAS, the New York Power Authority provides substantial benefit to the State of New York and various municipalities throughout the same, with its margins of profit derived from its two profitable sites, namely the Niagara Power Project and the St. Lawrence-FDR Power Project, while said beneficiaries are not required to provide police and fire services, nor are they required to provide reimbursement to those host municipalities that provide such first responder services, and

WHEREAS, the New York Power Authority does control more than 2,400 acres of Town of Lewiston land, with said land neither taxable nor available for development to expand the Town's tax base, and

WHEREAS, under the New York Power Authority relicensing deal negotiated and signed by former Supervisor Fred M. Newlin, fire companies were excluded from the entities receiving low-cost power, and

WHEREAS, previous estimates have suggested that by not paying special district taxes, the New York Power Authority is depriving Lewiston's fire districts of \$2 million in revenue, and

WHEREAS, the Upper Mountain Fire Company was specifically created in 1959 due to the establishment of the New York Power Authority's Robert Moses Power Plant in 1957, and

WHEREAS, following a ruling by then-Attorney General Andrew M. Cuomo barring the Power Authority from disbursing funds to community entities in 2008, the New York Power Authority did terminate its long-time financial support of the Upper Mountain Fire Company, and

WHEREAS, The Upper Mountain Fire Company also has responsibility for providing both fire protection to Mount Saint Mary's Hospital and for providing Rural/Metro ambulance services, with the New York Power Authority a significant potential uses of said services, and

WHEREAS, Upper Mountain Fire Company, Lewiston No. 1 Fire Company, Lewiston No. 2 Fire Company, and the Sanborn Fire Company cooperatively respond to major fires and other disasters, and

WHEREAS, the Lewiston Police Department is tasked with providing first-responder police service at the Power Authority's Robert Moses Power Plant, and

WHEREAS, despite rules precluding the Power Authority from providing partial funding to those entities paid for by the taxpayers of Lewiston that protect its infrastructure, the Power Authority was able to provide the City of Niagara Falls with a \$13 million payment to meet its budget needs in November 2012, and

WHEREAS, the \$13 million donation to the City of Niagara Falls came just weeks after Lewiston's first responders deployed to and extinguished an August 26, 2012 turbine fire at the Robert Moses Power Plant, and

WHEREAS, federal officials including the Honorable Charles E. Schumer have called for increased funding to the Upper Mountain Fire Company given its unique role in homeland security as it protects both the Power Authority and the international bridges to Canada, now therefore be it

RESOLVED, that the Lewiston Town Board does call upon the New York State Legislature, in its oversight role of the New York Power Authority, to enact legislature which shall clarify Attorney General Cuomo's ruling and permit disbursement of funds to entities such as fire companies and police that act in a first responder capacity to Power Authority sites, or alternately, to allow the Town to place all Power Authority lands within its border on its tax rolls and to immediately commence collection of special districts taxes from the same, and be it further

RESOLVED, that the Lewiston Town Board call upon the entire Western New York delegation to the New York State Legislature to support enactment of said legislation, and be it further

RESOLVED, that the Lewiston Town Board further calls upon the Honorable Amy Paulin, chairwoman of the Assembly Energy Committee, and the Honorable Sheldon Silver, Speaker of the Assembly, to allow said legislation to come to the floor of the Assembly for a vote, and be it further

RESOLVED, that the Lewiston Town Board urges Governor Cuomo, upon passage of said legislation, to sign the same into law, as it provides a legislative remedy to the least desirable impacts of the 2007 opinion he was required to submit regarding Power Project contributions, and be it further

RESOLVED, that the Supervisor of the Town of Lewiston shall forward copies of this Resolution to Governor Cuomo; Senate President Pro Tempore Dean G. Skelos; Senate Majority Leader Thomas W. Libous; Senate Vice President pro Tempore George D. Maziarz; Assembly Speaker Sheldon Silver; Assembly Majority Leader Joseph Morelle; Assembly Minority Leader Brian M. Kolb; Member of the Assembly Jane L. Corwin; Member of the Assembly John D. Ceretto; Member of the Assembly Ray Walter; Member of the Assembly Robin Schimminger; Member of the Assembly Amy Paulin; and all others deemed necessary and proper.

Seconded by Winkley. The Clerk was directed to poll the board.

Councilman Bax: Aye
Councilman Marra: Aye
Councilman Palmer: Aye
Councilman Winkley: Aye
Supervisor Reiter: Aye

Motion Carried 5-0.

Budget: The Finance Director said a number of Department Heads have requested to meet with the Town Board with respect to their respective budgets. The Board agreed to meet on Thursday, October 17 at 2 PM in the main meeting room.

In other matters, the Supervisor noted that Robert Lannon of CRA Associates has re-scheduled his presentation with regard to the SEQR update for Joseph Davis State Park from 10/28 to 11/4 @ 5 PM.

Marra MOVED to adjourn the worksession. Seconded by Bax and carried 5-0.
Time: 6:40 PM.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk