

November 28, 2011 Regular Town Board Meeting  
6:00 PM.

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Atty. M. Dowd; Hwy Supt. D. Janese; Eng. R. Smith; WPCC Admin. J. Ritter; Finance Director M. Johnson; Bldg. Insp. T. Masters; Police Chief C. Salada; Rec. Dir. M. Dashineau; 3 Press; 7 Residents and Dep. Clerk C. Schroeder

Absent: Atty. Mark Davis

Councilman Marra led the Pledge of Allegiance followed by a moment of silent reflection.

#### RESIDENTS STATEMENTS

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

Rosemary Warren, 5842 Griffin Street, said she hoped the light to the entranceway of Town Hall gets fixed as it is difficult to see the driveway to the parking lot. Secondly, she is submitting a FOIL request on two used white pick-up trucks that were bought for the Parks Department. She thought it strange to buy two when the traveling between recreation program sites have closed and winter ones are located near each other. She was told other departments are using them. She asked why the Town's logo was not put on and the answer was there was no idle time. I feel this is not a good answer. Mr. Dashineau, Parks Director, gave me a detailed list of all the trucks citing what is wrong with them. Truck 62 was taken off the road and deemed unsafe. This truck was pulled over by the state police for numerous safety issues; one being brakes. In her FOIL request, Mrs. Warren said she is requesting information on this truck; specifically 1) Copy of the Police report; 2) Name of driver; 3) Time and place truck pulled over and if any fines were issued or towing charges assessed; and 4) Cost to repair Truck 35; and 5) Cost to repair Truck 39.

Jim Langlois, 441 Harper Drive, said he approached the Board in late spring and talked about property next to him that has been foreclosed and in bad repair. Langlois said the Town did a good job in getting people to cut the grass every few weeks. They were also able to have someone dismantle the pool so there was no longer a hazard for the neighboring children. They also drained the pond that was a source of mosquitoes. Since then, nothing else has been done but the property has been inspected by the Building Inspector and Fire Inspector and declared a hazard. Langlois said the home is a distraction to the neighborhood and depreciating property values of nearby homes. Langlois said he hoped the Town would continue to keep working on that to see if they could very quickly get someone to take the house down or fix it up.

Langlois said his property backs up to property on Kenwood Drive. He would testify that there is a lot of water that stays there all spring and does not clear up until the weather gets warm in the summer.

Colleen Thurman, 448 Kenwood Drive, said she sent a letter on May 4<sup>th</sup>, 2011 to Sup. Reiter about the problem with water at Kenwood Drive. Her property in the last three years has gotten really bad. The ground is washing away from around her house. My patio has been in since 2000 and was fine until about three years ago. It has sunk about 4-5 inches in the past three years. Around the front of the house in the last couple of years has sunk. The front porch is pulling away. It is really affecting the value of my property. She submitted pictures for the Board to see. What I was told by a neighbor was that they was a stream on Kenwood Drive that may have something to do with it. I, myself believe it has something to do with the new development on Oak Run. When those houses started going in, that is when we started having the serious drainage problem. I don't know if you did an Environmental Impact Study to see if there was a ground water situation. Something drastic has happened in the last three years. Something has to be done.

Reiter asked the Building Inspector, Drainage Supt. and Town Engineer to investigate the area to come up with a reasonable solution to rectify the drainage problem and report back at the Dec. Worksession.

Paulette Glasgow, 836 The Circle, spoke regarding the Lewistowne Green space Issue. She has spoken to two people in the Attorney General's office with regards to this issue. The subdivision's developer, Leo Giusiana had dedicated that land for a town park in lieu of paying a \$250 recreation fee per parcel. If this is true that it was to be used for recreation purposes then the Board would need to go thru an alienation process to transfer this property, she said. If it isn't an alienation process then the Comptroller's office said the land needs to go out for appraisal.

Glasgow said there has been an issue that has baffled her referring to the "emergency" purchase of two pick-up trucks for the Parks Department. She has spoken to the State Comptroller's office regarding this. In order for an emergency purchase to occur it has to be under dire circumstances that places a community in imminent danger. On July 19, the Board met at 8:00 in the morning. Without formal warning and without first soliciting competitive bids, Sup. Reiter declared an emergency in the Parks Dept. because they had very few vehicles. Marra made a motion, seconded by Palmer to purchase the pick-up trucks for the Parks Dept. at a cost of \$21,000. Verification of fact is that the Supervisor does not declare an emergency. The Town Board does. The Supervisor, when an emergency is declared, closes the building. To make an emergency purchase, you must first specify in a document what the emergency danger is affecting the loss of property, life, health and safety. Nowhere did Mr. Dashineau provide this letter. If the Parks Director didn't think that there was an emergency and trucks needed to be purchased without first going out for competitive bid – what did you know that he didn't know? What was the imminent danger to health, safety, property and life? It has to be documented.

Recently, Mrs. Warren made a FOIL request with regards to the purchase of these vehicles and why they didn't have Town decals which they are supposed to have. She was informed that since the Parks Dept. is still using them there wasn't enough time for the Highway Dept. to place the decals on the new vehicles. She was also informed that when not in use by the Parks Dept. these vehicles are to be parked at Town Hall overnight with the other Town vehicles that are out there. They haven't been parked here overnight for some time. Where they are being parked?

Reiter said they were parked at Joe Davis State Park. He said he is driving one of the trucks now as his truck is no longer serviceable.

Glasgow asked if the Board authorized use of that truck for the Supervisor.

Reiter said they did not. I had authorization to use a truck before.

Glasgow said it was an emergency purchase for the Parks Dept. Why are you driving it? Reiter said the parks are not using it now. The Supervisor said he would not answer any more questions directed to him by Ms. Glasgow.

RoxAnne Corsaro, 434 Kenwood Drive, reiterated the comments by Mrs. Thurman. Since moving there 2 ½ years before she has started to see big gradual sink holes in her yard. Reiter said they will have the Engineer look at that.

#### AGENDA:

Additions:

Marra: Building Dept. and Parks & Recreation matters (2)

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

#### MINUTES:

**Palmer MOVED to approve the minutes of 10/24/2011 (PH 2012 Budget); 10/24/2011 (PH 2% Cap Override); 10/24/2011 (RTBM); 10/30/2011 (Worksession). Seconded by Bax and carried 5-0.**

#### POST-AUDIT:

**Palmer MOVED for approval of post-audit payments to Home Depot - \$588.47; Sam's Club - \$1,107.70; DeLage Landen Inc. - \$116.10; Mountain Glacier LLC - \$45.17; NYS Employees' Retirement System - \$668,283.00; and NYS Police & Fire Retirement System - \$154,106.00. Seconded by Marra and carried 5-0.**

PENDING BUSINESS:

1. Sewer Service Connection Detail: Gary Catlin said Eng. Smith has drawn up and accepted the sewer detail. In conversation with the Building and Sewer Departments, it seems very evident this Town should adopt a program for registering contractors to work in this Town, Catlin added. Making sure they have appropriate insurances, they know what the details are and what they have to abide by. Catlin said they would work out the details of this Registration and present them to the Board at the next meeting.

OLD BUSINESS:

1. Lewistowne Greenspace Status: Dowd said there was a deed recorded for the "green space" areas. The deeds do not specifically recite their use for park purposes. An agreement was signed by the Developer early on that talk about the fact that he had to comply with either paying a \$250 per lot recreation fee or donate land for park purposes. At the end of the day the deed that was recorded doesn't have any restrictions what the land can be used for. There is a State Comptroller's opinion that indicates that if the Town takes land for public purposes but never uses it and there is no deed restriction then the land can be transferred without going thru the alienation process. If the Board chooses to sell the land it can be done, subject to permissive referendum. The real goal, Dowd said, is to decide what the best way is for the Town to recover the greatest return on the sale of this property. The board would need to decide if they want to sell it as a single parcel to a developer. Those parcels are large enough to put building lots back there. You need to sit down as a Board and delegate how you want to do it; either as a single lot or separate building lots.

Palmer: I know you've done a lot of work on this. The more we find out about this the more complicated it seems to get. The reason we went into this in the first place was to protect ourselves from lawsuits for falling trees and damaged fences & garages; etc. The trees are overgrown and are not well-kept. It is difficult to maintain. But, as we hear at every meeting we have some real logistical problems with 1) dividing the properties. Who is to say who gets how much? and 2) you bring up the possibility of developing. People built those houses with the understanding there would be nothing behind them. I don't think it would be very fair to some of those people over there if suddenly we tossed a few houses up behind them. I don't know how my colleagues feel about it but at this time I wonder if we are just wasting our time with this.

Dowd: I think the only way you could work it is if you were to sell the whole thing off, whether as a single lot for someone to try and develop or smaller lots. It's ultimately the Board's decision.

Bax: In order to get the full picture, it makes sense to notify the homeowners and get them in for a pre-meeting.

Palmer: Don't we need some sort of preliminary map drawn up so people know what... We didn't get into this with the intent of making money. We got into it with the intent of relieving ourselves from any liability. We pretty much want to get this off our table. Is there a way to do it somehow fairly, like price per sq. foot or something like that?

Bax: That is the problem. Because it's town property we can't just give it away if it has value. That being said, we're going to need an appraisal. We're going to need surveys.

Dowd: If you want to be creative you can sell a building lot, if you want to go down that road. I think there is a market for it. You would have to try and get the best price. This will be a long term process.

Reiter said he would contact John Sharpe, Eng. Clerk to put a map together of the area in question.

Supervisor Reiter:

Engineering:

NYPA Reservoir State Park Improvements: Eng. Smith said this pertains specifically to the waterline in the Town Right-of-Way off Old Military Road. The waterline, he said, has been installed in accordance with the plans and approved by the NCHD for use. Smith recommended the Town Board take dedication of the waterline with the condition that the Contractor re-visits the site next spring to ensure an established lawn area to all areas disturbed by the Contractor's operations. The PIP will not be closed out until that time.

**Winkley MOVED for dedication of the waterline with the stipulations noted by Eng. Smith. Seconded by Marra and carried 5-0.**

In addition, Smith requested that the Contractor install No Parking Fire Lane signs along the parking spaces adjacent to the cul-de-sac. The Contractor's finished work does not comply with the dimensions on the approved plans. The width of the cul-de-sac does not allow for large design vehicles such as fire trucks, school buses, snow plows, etc. These signs shall remain until the Contractor fixes this problem next spring.

**Bax MOVED that the Contractor install the No Parking signs, as recommended by the Engineer. Seconded by Marra and carried 5-0.**

The Circle (Drive): Reiter noted that the Town Clerk sent a letter to residents of The Circle regarding the Town Board's decision to change the name to The Circle Drive. Based on some questions raised by homeowners, the Board scheduled a Special Meeting for Monday, 12/5 at 7:00 PM to address their concerns.

Set December RTBM/Final Audit:

**Marra MOVED to set the RTBM/Final Audit for Thursday, December 29 at 6:00 PM.**

**Winkley MOVED for dedication of the waterline with the stipulations noted by Eng. Smith. Seconded by Marra and carried 5-0.**

Hospice Dash: Paul Beatty Jr. came before the Board on behalf of Niagara Hospice to seek support from the Town for their event on September 22, 2012. The Niagara Dash is a half-marathon and 5K run/walk that begins in Lewiston, at ArtPark, thru the Village of Lewiston down River Road into the Village of Youngstown and finishing at Porter on the Lake. He has asked each municipality for its support and cooperation for next year's event. The CEO of Niagara Hospice has written a grant in the hopes to secure a full-time marketing division to promote the event more nationally. They are optimistic they will jump from 1,000 runners this year to 5,000 next year. There will be more of a national marketing campaign thru Running Magazines and other large running venues. With that they plan to market the whole Lower Niagara Region – hotels, businesses, restaurants – and take it to a much higher level. Mr. Beatty said they would need help with traffic and safety. That is his main concern.

Chief Salada was asked if he had any concerns. Salada said it went very smoothly this year but the number of runners it will be increased to will definitely pose a challenge for next year but they will do what they have to do and take care of it.

Budget Transfer: The Board received a request from Doug Janese, Highway Supt. for a transfer of \$60,000 from Highway Fund Balance to Highway Personal Services

to cover additional costs related to the late April windstorm and the replacement manpower needed due to four long term disability cases. These monies will be recouped by the \$112,000 in reimbursement thru the NYS Office of Emergency Management. Payment of these funds is slated to be made in the first quarter of 2012, at which time the entire payment will be deposited as additional fund balance.

Attorney Dowd said General Municipal Law requires that the transfer be requested by the Supervisor and approved by 2/3's of the Board.

**Winkley MOVED for approval of the transfer, Seconded by Palmer.**

Roll Call:

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

**Motion carried 5-0.**

Training: Reiter said the Planning Board Chairman and Building Inspector are requesting that the 2 hour zoning code update worksession scheduled with Drew Reilly on Monday, December 5, 2011 be counted as 2 hours of the required 4 hours of training for 2011 for those members still in need of additional hours.

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

Finance: At one of the budget sessions, Johnson said he talked about hiring two companies to review the Town's utility accounts. He asked the Board to authorize the Supervisor to execute an agreement with the two companies, pending the Attorney's review; one for the phone company and one for Troy Banks who would review the other utilities. Johnson said the Town is not committing to anything. It is just allowing them to review the Town's accounts.

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

Reiter announced a Ribbon Cutting ceremony for the new ice rink would be held on Thursday at 6 PM.

Councilman Winkley:

Winkley announced a meeting with the Fire Bureau on 12/1 to discuss Fire Company contracts.

Councilman Marra:

Marra commended the Recreation Director for the work he has put in on the ice rink to make sure it gets open by 12/1. Thereafter, the hours will be Noon to 9 PM, Saturday and Sunday and weekdays from 5-9 PM.

Marra then referred to a request from the Recreation Director to hire the following applicants as Recreation Leaders P/T, Seasonal for employment as supervisory help at the Seasonal Ice Rink:

Karen Torrie	Recreation Leader P/T	10.00 p/h
Alex Nowocien	Recreation Leader P/T	10.00 p/h
Vincent Ceretto	Recreation Leader P/T	10.00 p/h
Brent Atkinson	Recreation Leader P/T	10.00 p/h
Tiffany Chandler	Recreation Leader P/T	10.00 p/h

Also continue the employment of:

Kevin Richards	Park Laborer	10.00 p/h.
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Mr. Richards will primarily be responsible for the maintenance of the ice rink and has been trained by Ice Rinks 2 Go to identify and correct any problems that arise.

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

Lastly, Marra referred to a Vendor Agreement that would offer an opportunity to get area restaurants to serve food at the venue.

**Marra MOVED to permit the Recreation Director to execute the Vendor Contract for the ice rink. Seconded by Winkley and carried 5-0.**

Dashineau said the restaurant would set up inside the tent offering concessions. Vendors would pay a permit fee to the Town and supply necessary insurances.

Reiter read the following announcements:

Town Offices closed 12/23 and 12/26 for the Christmas Holiday.

**Marra MOVED to enter Executive Session to discuss personnel matters within the Water Department. Seconded by Winkley and carried 5-0.** Time 7:05 p.m.

Present: Reiter, Bax, Marra, Palmer, Winkley, Catlin and Dowd

Minutes taken by Councilman Palmer.

**Discussion: Personnel Matters**

**Bax MOVED to exit Executive Session and reconvene RTBM. Seconded by Palmer and carried 5-0.**

Action Taken:

**Motion by Bax, Seconded by Palmer to authorize Supervisor Reiter to draft letter to District Attorney regarding possible employee theft. Carried 5-0.**

**Motion by Palmer, Seconded by Marra to authorize voluntary transfer of Patricia Yacus from Highway to Town Hall pending further review of work environment. Carried 5-0.**

**Marra MOVED to adjourn. Seconded by Winkley and carried 5-0.** Time: 8:00 PM.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk