

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on January 31, 2006 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York 10590.

PRESENT: Supervisor - Edward P. Mahoney
Councilmen - Peter DeLucia, Allen Hershkowitz, Al Perruzza, Suzanne Whalen
Town Attorney - Leslie N. Maron
Town Clerk - Kathleen G. Cory

Also attending was the Deputy Supervisor, Joann Vasi.

Supervisor Mahoney called the meeting to order at 7:30 p.m.

The Pledge of Allegiance was led by Doug Tyler of Goldens Bridge Boy Scout Troop 154.

MEMORIAM – Coretta Scott King

The Board observed a moment of silence in memory of Coretta Scott King, widow of Dr. Martin Luther King, Jr. who passed away recently.

AGENDA – Changes

Mr. Mahoney noted there have been some changes to the agenda in order to hear from the Scott Pool representative and to conduct some interviews in executive session.

MINUTES/MEETINGS – Minutes Approved

The Board discussed the minutes of January 10. Mr. Hershkowitz noted that he had not voted in favor of the motion to establish the position of Town Attorney and asked that a correction be made to the minutes. Mr. Hershkowitz also noted that State law prohibits the creation of a position in executive session. Mr. Maron said that was correct. Mr. DeLucia disagreed, stating that while the Board can only go into executive session for a specific reason, but once in executive session other topics may be discussed. He also noted that the Board was not creating a new position, but reinstating a position that formerly existed.

Mr. Hershkowitz said the wetland inspector was called to a meeting on January 26 and met with Mr. Mahoney, Mrs. Whalen and Mr. DeLucia. He said it was a meeting, there was a quorum, and there should have been minutes.

Mr. DeLucia explained there was a meeting called by Planning Board Chairman P. J. Rossi which included Jay Fain and the Town Supervisor. Earlier that day there was a meeting between Suzanne Whalen and the Supervisor. Mr. DeLucia said he stopped in, talked to Mr. Rossi, and ended being somewhat involved in the Rossi-Fain meeting. Mrs. Whalen and Mr. Mahoney were there on other business. Mrs. Whalen said it was a two-member meeting. After discussion it was clarified that the meeting was not an official meeting of the Board and Board members who stopped in at the meeting did so by chance and only for a brief time.

Mr. Maron advised that the meeting was not an official meeting of the Board and no notice or minutes were required.

On motion by Mrs. Whalen, seconded by Mr. Perruzza, the Board voted 5-0 to approve the minutes as corrected.

TOWN ATTORNEY – Comments re Contract

Mr. Mahoney reviewed a discussion with Mr. Maron regarding his position. He noted that in late December the transition team advised Mr. Maron by courtesy letter that his contract would not be renewed. Any formal decision would require a resolution by the Town Board.

PARKS AND RECREATION – Town Pool Update

Gary Nurnberger, Project Manager for Scott Pools addressed the Board regarding the status of the pool construction work. He said they have been working on the pools since the day after Columbus Day. He reviewed the site plan and explained the work in progress. The former diving area of the old pool has been filled in and a separate dive pool will be constructed nearby. The new pool has a zero-entry feature for handicapped accessibility. Part of the construction involved excavating into a nearby hill to get the proper grade.

Mr. Nurnberger explained the new 8- inch water lines that feed water into the 64 inlets that feed water into the pool. Mr. DeLucia noted that one floor return line has to be relocated. Mr. Nurnberger noted that the inlets that come up in the corners need to be adjusted by several inches. He said they had worked out a solution to that problem. In the zero entry area, about 70 feet of water line has not been installed yet. Mr. Nurnberger said once the piping has been installed and completely pressure tested and leak-proof and the weather is satisfactory, it will be covered. The old pool had a history of leaking water from the gutter, and the design solution to that is to replace it with a concrete gutter. Mr. Nurnberger said the existing walls didn't have enough integrity to remain, especially in the shallow end. On the deep end of the pool the walls were completely built as new. In the shallow end the specifications called for the walls to be cut down and built on top of, and the contractor did that. Mr. Perruzza asked Mr. Nurnberger if he had any issues with putting the new work on top of the old walls. Mr. Nurnberger said no, there were reinforcing rods that have been drilled and anchored that penetrate from the old up into the new and hold it together. Mr. DeLucia said he knew that where there were problems with the old walls they were demolished. Mr. Nurnberger said the old walls didn't have enough integrity, especially in the shallow end. Mr. Nurnberger said the gutter in the zero entry area has not been formed or poured, but the subgrade level is all prepared--forming boards and steel are ready for it.

Mr. Nurnberger said they were fortunate to have a lot of good weather. He said they have been asked why they haven't poured one particular area. The answer is that it will take awhile to set the steel and they don't want it to rust. It will be the first thing done in the spring. One other major piece of work is the new equipment filter room, office and chlorine containment tank. That is being constructed of poured-in-place concrete. The floor slabs in those spaces were poured yesterday and they are putting up the forms that will create the roof of that area. It has been designed for people to sit on and a shade structure has been designed for people who want to sit

and observe the pool area. Once the weather gets bad they will focus on the extensive amount of equipment and plumbing that goes into that building.

In the diving pool area, new drainage lines that were designed and installed were noted. There are 15 inch diameter drain pipes connecting catch basins and manholes. The contractor is taking water from the hillside and diverting it around the pool area. Mr. Nurnberger said they have installed additional dewatering elements as the hillside is wet and they are trying to dry it out as much as they can before they dig the 12-foot deep tank in the springtime.

Mr. Nurnberger explained that the existing circular wading pool was demolished early in the fall. The finished elevation of the pool is a few feet higher than it is now, and they have been raising the grade in that area and setting forms for the new pool. No piping or concrete work has been done in that area yet. There is a separate equipment room in the hillside and the subcontractor will work on that next. There is a surge tank next to the diving pool. The water level in the pool comes right to the edge of the coping stone. Normal action and activity in the pool allows the water to flow over and into this depressed area through the slots and into the gutter and that is how the water circulates to the equipment room and the filters and is pumped back out to the pool. Mr. Nurnberger showed a sample of concrete. It is a time-consuming installation as it must be perfectly level to function properly.

Mrs. Whalen asked if they always had an August deadline on the dive pool, noting that it won't be ready for summer use. Recreation Superintendent Joanne Marchesani said she has made arrangements with other towns to use their facilities.

Mr. Nurnberger said it is in Scott Pools best interest to get all the work done as soon as possible. They are working on the dive pool as much as any other portion of the project and not leaving it until last. Mr. DeLucia asked about segregating the work area around the dive tank during day camp. He suggested the contractor talk to the Health Department about their requirements for safety during camp. Mr. Nurnberger said safety of the job site is crucial.

John Ciardullo, the architect for the pool, noted there is water flowing from the rock and it will go right under the pool. Mr. DeLucia said every precaution has been taken, noting that the weather has alternated from warm to cold. He mentioned a crack in the cement for the newly-poured equipment room. Mr. Nurnberger said after talking to Mr. Ciardullo he feels reassured that it isn't a problem. Mr. Ciardullo said it is between the filter room and the office and is a diagonal crack over the opening for a door. He said it is small and insignificant.

Mr. Ciardullo said they do have to make a revised application to the Health Department. He said he would like to have a meeting to review progress and resolve some minor change orders with the contractor. He also noted that the electrical contractor has yet to be chosen. Mr. Nurnberger said it will be time for the electrician soon. Mr. Ciardullo said they poured the slab and they had to put in some conduit and it was supplied by the Town. Mr. Nurnberger said everything that is steel has to be grounded and they have been doing it. Mr. Mahoney noted that Wayne Coluccini has been helping with oversight.

EXECUTIVE SESSION – Employment History

On motion by Mr. DeLucia, seconded by Mrs. Whalen, the Board prepared to vote to go into executive session to conduct interviews. Mr. Hershkowitz objected, noting the number of people attending the meeting. He also said the interviews should be conducted in public.

Mr. Perruzza said the Board has taken a month to do certain things. The appointments are very important and therefore he felt it is important to the general public for the Board to conduct the interviews.

Mr. DeLucia said he has never had an interview in public and didn't think any interviews had ever been done in public.

After further discussion the Board voted 4-1 (Mr. Hershkowitz voting no) to go into executive session for the purpose of discussing the employment history of particular persons. Mr. Mahoney advised the audience that the Board would listen to everyone who wanted to speak when they came out of executive session.

On motion by Mr. Mahoney, seconded by Mr. DeLucia the Board voted 5-0 to come out of executive session.

PUBLIC COMMENT PERIOD

Eric Newland of 9 Butternut Lane, Katonah addressed the Board regarding the proposed purchase by the County of Westchester of the Andes property. He said he hoped the current administration would continue the process. He volunteered to serve on a steering committee to further investigate the purchase of the Andes or other property for ballfields. He asked Mr. Mahoney if there has been further communication with the county. Mr. Mahoney said he has spoken with Larry Schwartz regarding the Andes property. He said he asked Mr. Schwartz if the county would be willing to consider other properties and he said "yes". Mr. Mahoney said the Board will include the residents in the discussions on the issue. Mr. Newland said the committee should include people representing the State Department of Transportation, wetlands, someone representing the sports teams, baseball leagues, soccer, and people from all hamlets.

Susan Arpin of Holly Hill Lane urged the Board to appoint people who are well qualified for the positions they are seeking.

Jean Lewis of Twin Lakes Road said she has lived on Lake Oscaleta for over 40 years. She said she was a member and chair of the Board of Education and is aware of the pressures and challenges of operating in the public arena. She thanked Mr. Mahoney for accepting that challenge. She urged the Board members to work together to appoint well-qualified people and to protect the environment.

Alan Cole of Todd Road, Katonah congratulated the Board on the reappointment of Ted Sohonyay as Chairman of the Antenna Advisory Board. He urged the Board to make further appointments based on merit.

Francis Loewald of Truesdale Lake said he was a Trustee of the library which has matters before various boards of the Town. He urged the Board to avoid with conflicts of interest when making appointments to boards and committees.

Richard Sklarin urged everyone to be constructive in offering solutions and ideas.

Keith Thompson of 18 Hunt Farm Road, Waccabuc noted there were people here earlier who wanted to speak but had to leave because the Board's executive session ran long.

Mr. Mahoney said his comments have been noted, and he apologized for the delay.

Mr. Thompson spoke in opposition to the possible appointment of Jessica Bacal as Town Attorney.

COMMENDATIONS

Supervisor Mahoney read letters of commendation to Police Officers Dean Gilhooly, Steven Broomer, Frank Secret, and a letter commending the entire department from high school athletic director Richard Beckley.

TOWN ATTORNEY – Re-Establishment of Position of Town Attorney

Mr. Mahoney proposed a motion to re-establish the position of Town Attorney in accordance with Town Law Section 22A. The position was formerly established by resolution of the Town Board on January 4, 1965 and abolished on January 23, 1996. The motion was seconded by Mr. Perruzza.

Mr. Hershkowitz said he saw no benefit to limiting the range from which to seek candidates for the position of Town Attorney. He noted there are many qualified people serving the Town who do not live here, including the current Attorney for the Town, Les Maron, who is a resident of Pound Ridge. He said there seems to be a clear "fix" in terms of choosing an attorney. Mr. Hershkowitz said he felt the effort to narrow the range from which to choose an attorney was designed to help justify an unfortunate appointment.

Mr. DeLucia said he was disturbed to hear the comment regarding "a fix" from a fellow Board member when the Board has discussed the issue at length and explained their opinions regarding an applicant's qualifications. He said some Board members feel that Ms. Bacal is a qualified candidate, highly experienced in Town Board matters.

Mr. Perruzza said there are three issues, the first is the position of the Town Attorney, the second is a presumption of Mr. Hershkowitz to weigh in on qualifications and thirdly the manner in

which the Board is trying to approach the issue, to move forward for the common good of the Town as opposed to continually delaying things.

Mr. Perruzza said while the new Board members were in Albany they spent quite a bit of time talking to people about various options, one of which is Attorney for the Town and the other is Town Attorney. He noted that the Town Attorney position had existed for many years. One advantage of that position is that it is a full-time position with a cap on expenses. The other is that the person is a Town resident which provides an intrinsic relationship with the Town, and thirdly it provides a continuity. Mr. Perruzza said the Board members agreed to open up the application process to anyone in the community, and only one other person applied, and that person then withdrew. He said the qualifications are leadership, experience, technical knowledge, the ability to reach out to get opinions—that is the sign of a leader—that is the sign of a qualified person. Mr. Perruzza said he took exception to comments that were not constructive.

Mrs. Whalen said this was a brand new Board and all three people running together were elected and represent a new approach. She said she supported re-establishing the position of Town Attorney. Mrs. Whalen also said she felt Ms. Bacal had a lot of experience specific to the Town of Lewisboro and will be invaluable, and she is a highly qualified attorney.

On the motion by Mr. Mahoney, seconded by Mr. Perruzza, to establish the position of Town Attorney, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Perruzza, Whalen	(4)
No	- Hershkowitz	(1)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board hereby re-establishes the position of Town Attorney.

TOWN ATTORNEY – Appointment of Jessica Bacal

On motion by Mr. Mahoney, seconded by Mr. Perruzza, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Perruzza, Whalen	(4)
No	- Hershkowitz	(1)
Absent	- None	(0)

RESOLUTION

RESOLVED, that Jessica Bacal be and hereby is appointed Town Attorney.

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Mr. Mahoney noted that Ms. Bacal is a cum laude graduate of Vassar who received her law degree from Columbia Law School and an LLM for environmental law from Pace Law School,

has served the Town as Councilwoman for two terms, Planning Board member and chair, Conservation Advisory Council member and chair, and Emergency Planning Task Force member and chair. Mr. Mahoney noted that Stanley Anderson, who was the Town’s well-respected attorney for twenty-five years was Ms. Bacal’s mentor, friend and employer.

Mr. Mahoney said that although Ms. Bacal has been a friend of his for many years, she was chosen by four members of the Board on the basis of her credentials and experience.

ZONING BOARD OF APPEALS – Reappointment of Geoffrey Egginton

On motion by Mr. DeLucia, seconded by Mrs. Whalen, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that Geoffrey Egginton be and hereby is re-appointed to a five-year term on the Zoning Board of Appeals.

TOWN PROPERTY – Re Sale of Foreclosed Garages

Attorney Les Maron advised the Board that there was a problem with notices on the sale of foreclosed property in the Oakridge neighborhood. The Internal Revenue Service was not properly notified. The matter has been resolved and one purchaser is ready to move forward with the sale. The proceeds of the sales will be held in escrow. The sale of the residential unit has been delayed due to environmental issues in the unit.

Mr. DeLucia asked if the Board had thought about keeping the unit as an affordable housing rental unit. Mrs Vasi advised that it was already a moderate-income unit, but not a rental. Mr. Perruzza suggested reviewing the cost of cleaning up the unit, the possible selling price and the possible rental and then deciding what to do.

OAKRIDGE WATER AND SEWER DISTRICTS – Status Review

Mr. Mahoney advised that he will be reviewing the Oakridge utilities work with a representative of Delaware Engineering. Mr. Perruzza said he would like to hear a status report and a priority list of what needs to be done.

INSURANCE - Review of Aetna Health Insurance Contract

Mr. Maron said the Board would need to review the employment contracts to be certain the proposed Aetna contract is consistent with them. The Town Attorney and the Finance Department will review the contracts and report to the Board.

PARKS AND RECREATION - Authorize Agreement with Westchester Special Recreation

Les Maron commented on corrections needed to the agreement with Westchester Special Recreation.

On motion by Mr. DeLucia, seconded by Mrs. Whalen, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Supervisor and/or the Superintendent of Parks and Recreation is hereby authorized to sign the 2006 Interagency Agreement Renewal for Northeast Westchester Special Recreation, Inc.

PARKS AND RECREATION – Town Pool – Review of Proposed Construction Management Contract

The Board reviewed bids received for project oversight of the Town pool reconstruction. Mr. DeLucia said the Board was interested in having someone on site full time to monitor construction. Mr. Hershkowitz suggested getting a recommendation from the Superintendent of Parks and Recreation or the Parks and Recreation Advisory Council. Mr. Perruzza suggested they be asked to report to the Town Board. Mrs. Whalen asked for references for the firm from Pleasantville. Mr. Perruzza said he would call for the requested information.

PARKS AND RECREATION – Town Pool – Discussion re Bids for Electrical Work

The Board commented that only one bid was received for electrical work at the pool and it was over budget. After discussion the Board decided to have the architect review the specifications and make adjustments if necessary, and then rebid the project.

PARKS AND RECREATION – Fox Valley Park – Proposed Lions Club Project

The Board discussed a proposal from the Lewisboro Lions Club for the installation of a gazebo at Fox Valley Park. The Board asked for more information from the Lions and a recommendation from the Parks and Recreation Advisory Council.

DOG CONTROL OFFICER – Reappointment

The Board reviewed a request to reappoint the Dog Control Officer who has not been working due to an injury. The Board requested a letter from her doctor stating that it is appropriate for her to return to work.

DOG LICENSES – Authorization to Sell Multi-Year Dog Licenses

The Town Clerk explained that the State Agriculture and Markets Law has been amended to require that no dog license may be valid for a term longer than the validity of the dog’s rabies vaccination. However if the rabies vaccination is valid for longer than one year, the Town Clerk can be authorized by the Town Board to issue a license for more than one year.

On motion by Mr. Perruzza, seconded by Mr. DeLucia, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Clerk be and hereby is authorized to issue multi-year dog licenses (up to three years) pursuant to State law.

BUILDING DEPARTMENT – Authorization to Purchase Jeep

The Board reviewed a request for the purchase of a new vehicle for the Building Department. Mr. Hershkowitz asked if a hybrid vehicle has been considered. Joel Smith, Facilities Maintenance Manager explained that the vehicle must be a four-wheel drive vehicle and a hybrid wouldn’t be appropriate. Mr. Smith explained various purchasing options. The State contract price for the Jeep is \$14,700.

On motion by Mr. Mahoney, seconded by Mr. Perruzza, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Building Inspector be and hereby is authorized to proceed with the purchase of a Chrysler Jeep Liberty for use by his department, at a cost of \$14,975.50, and be it further

RESOLVED, that the Supervisor be and hereby is authorized to sign the necessary documents.

CLAIMS – Approved for Payment

On motion by Mr. Mahoney, seconded by Mr. DeLucia, the Board voted 5-0 to approve payment of claims in the amount of \$343,872.49 including \$98,081.37 paid prior to audit.

ATTORNEY FOR THE TOWN – Commendation to Leslie Maron

The Board members thanked attorney Les Maron for his services to the Town and adopted the following resolution of thanks.

On motion by Mrs. Whalen, seconded by Mr. Hershkowitz, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board hereby thanks Attorney for the Town Les Maron for his service to the Town, and wishes him well in future endeavors.

RECEIVER OF TAXES – Annual Report

The Board reviewed the Receiver of Taxes annual report and commended her for her hard work. It was noted that she collected \$64,000,000 in taxes last year.

REPORTS – Monthly

Monthly reports were received and filed on motion by Mr. DeLucia, seconded by Mr. Perruzza.

TOWN PROPERTY – Authorize RFP For Real Estate Broker

On motion by Mr. DeLucia, seconded by Mrs. Whalen, the Board voted as follows:

THE VOTE: Yes	- Mahoney, DeLucia, Hershkowitz, Perruzza, Whalen	(5)
No	- None	(0)
Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Clerk be and hereby is authorized to publish the appropriate legal notice seeking requests for proposals for a real estate broker for the sale of excess buildings and land that were acquired by the Town in the purchase of the former Bell property, now known as the Leon Levy Preserve.

MEETINGS – Dates Set

Upcoming meetings of the Board will be as follows:

- February 7, Town Board work session, Town House, 7:30 p.m.
- February 21, work session, Town House
- February 13, Town Board regular meeting, 7:30 p.m. South Salem library

EXECUTIVE SESSION – Litigation

On motion by Mr. DeLucia, seconded by Mr. Perruzza the Board voted 5-0 to go into executive session to discuss pending litigation with the Attorney for the Town.

On motion by Mr. Mahoney, seconded by Mrs. Whalen the Board voted to come out of executive session.

ADJOURNMENT

On motion by Mr. Mahoney, seconded by Mr. DeLucia, the Board voted to adjourn at approximately 10:00 p.m.

Kathleen G. Cory
Town Clerk