

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on March 31, 2008 at 7:30 p.m. at the South Salem Library, 15 Main Street, South Salem, New York.

PRESENT: Supervisor - Edward Brancati
Councilmen - Peter DeLucia, Bruce Pavalow, Al Perruzza, Daniel Welsh
Town Clerk - Kathleen G. Cory
Town Attorney - Jessica Bacal

Also attending was Deputy Supervisor Joann Vasi and Facilities Maintenance Manager Joel Smith.

Mr. Brancati called the meeting to order at 7:36 p.m.

PLEDGE OF ALLEGIANCE

The Supervisor led the Pledge of Allegiance to the flag.

BANKING – Presentation by JP Morgan Chase Bank and Authorization to Open a Payroll Account

The Director of Finance introduced representatives of Chase Bank who made a presentation to the Board regarding the services their bank could provide to the Town. Ed Muendell who said he works in the government services side of Chase Bank introduced the current and future managers of the Cross River Branch, and Erica Young, Chase at Work specialist who handles exclusively banking relationships and benefits to employees.

Mr. Brancati said the Town has been having problems with its current bank, the Bank of America. Chase Bank has been involved in a recent bond issue by the Town, and he asked them to see if they could help with other banking matters.

Mr. Muendell said he has worked with the Lewisboro Director of Finance when she was in Ossining. He said he understood the problem the Town was having with direct deposit since the beginning of the year, and he managed to set up a system for the Town in just three days. Normally it is a four-to-six-week turnaround time. They have tested a file, and will be able to provide direct deposit for the next pay period on April 3.

Erica Young explained the benefits Chase offers, which are provided through a direct deposit program, to employees and include free checking and saving accounts with no minimum balance requirements, no maintenance fees, free ATM, free bill pay, free Visa and debit cards. There are also discounts on education loans, mortgage loans and home equity rates. The bank allows each customer two free non-bank ATM transactions per statement cycle. Other discounts may come up in the future. The bank also offers free financial education seminars, and all benefits apply to spouses of employees.

Mr. Brancati noted that any employees who are current Chase customers won't have to open new accounts, the bank will upgrade.

Mr. Perruzza asked how the bank normally comes up with a relationship with a Town. Mr. Muendell said as a relationship manager, his job is to work with a customer on their daily banking needs, cash management products, investment products, whatever is a “best fit” for them based on their needs. Mr. Perruzza asked him if they review their services, come up with something new and offer it to employees. Mr. Muendell said there is a monthly analysis that they do that is sent to the Director of Finance, and they will work with her to maximize investment opportunities.

Mr. DeLucia asked Ms. Sickenius about her concern regarding the Town’s accounts. She said there are 20 accounts they thought were money market accounts, but they are not so they are earning a lower interest rate. She said Chase is good about letting the Town know when a promotional rate is available so the Town can take advantage of it.

Mr. Perruzza said in private life he has dealt with two of the gentlemen present tonight and felt they “went the extra mile” for him.

Mr. Brancati said they will prepare customized brochure information for the employees.

Ms. Young explained on-site services to be provided to employees. Mr. DeLucia asked about the investment representatives. Ms. Young said it would be a representative whose territory includes the Cross River branch. The representative could also come on-site for employees. The bank is also willing to provide whatever services a group of employees requested such as a mortgage seminar, identity theft, etc.

Mr. Perruzza asked if these were limited-time offers. Ms. Young said they were not, and would be available as long as the Town was a Chase customer. New-employee orientations would be included in the program as well. Ms. Young said they have a “12-month plan” to keep employees apprised of Chase’s programs. Employees would be encouraged to sign up for direct deposit of their paychecks.

Mr. Pavalow asked how Chase’s package would compare to what the Town is getting now. Mrs. Sickenius said she was not aware of any employee packages from the current bank.

Mr. Welsh asked about Chase’s involvement in community service. Mr. Muendell said the bank gets many requests for donations. They are all considered and they support what they feel they can. They support whatever gives the biggest “bang for the buck”, and consequently do a lot with the county, United Way, etc. The bank in 2006 contributed over \$100,000,000 to various organizations such as the Boys and Girls Clubs, and for education and the arts. They recently gave a grant for Dutchess and Ulster counties combined in the amount of \$25,000. The bank also allows free accounts for sports teams and scout groups and gives bank tours for students. They have been asked to sponsor the Town fireworks display, and the branch manager was a member of the local Lions Club for a time. Ms. Young says she has worked in the schools teaching about saving and checking accounts.

The Board reviewed the information presented. Ms. Bacal suggested writing to the manager of the local branch of Bank of America to see if they can match the Chase package.

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Director of Finance be and hereby is authorized to transfer the Town of Lewisboro payroll account from Bank of America to JP Morgan Chase Bank N.A., effective immediately.

UNSAFE BUILDING – Discussion re 28 Fairmount Road, Goldens Bridge

Frank Mercado, contractor for the owner, Brian Stein, addressed the Board regarding the status of the cleanup project at 28 Fairmount Road, Goldens Bridge.

Mr. Mercado thanked the Town for providing the Building Environmental Consultants estimate, but he found another firm to do the assessment for less money. He noted that both companies are known as “BEC”, so he will call his firm Brooks Environmental. His analysis indicated that very little asbestos by percentage was found. Mr. Mercado and the Board reviewed the locations of the asbestos. Brooks Environmental recommended that the asbestos could be abated, not as an asbestos abatement for the entire building, but just the flooring material. The material will be tested by a laboratory, and there will be a chain of custody during the testing.

Mr. Perruzza questioned what the percentage number meant. Mr. Mercado said of the total kitchen floor tile or 118 square feet, only 18% of the linoleum is asbestos. However any amount over 1% is treated as an asbestos abatement project.

The Board reviewed the process of asbestos abatement. It is noted that it is material that can be remediated in its present condition. Phase I would be to remove from the site the asbestos from every building. The non-asbestos items in the bid documents were addressed. Mr. Mercado said his project would have the same scope of work that the Town’s bid documents encompass but they are spelling out where the asbestos is.

Ms. Bacal advised the Board members to give themselves a chance to read Mr. Mercado’s plan, and also to get input from the consultant and the Building Department.

Mr. Barrett said his biggest concern is the asbestos, and he asked who the contractor would be. Mr. Mercado said it is J&M Associates from Bedford. Mr. Barrett said any abatement contractor is responsible to the State Department of Labor and the State of New York to do this in the correct way. Mr. Mercado said they have retained them and if they are approved they can get going.

Mr. Brancati said BEC and Mr. Barrett will review the plan. He asked that they give the Board a recommendation “sooner rather than later” so that by next week’s meeting the Board can say it is complete or get questions answered, and Mr. Barrett can issue the permit.

Mr. Mercado said J&M will be filing for the asbestos removal permit. He also said there are three tanks, one above ground and two underground. He didn’t think they were over 1100 gallons so they can remove them. If there is evidence of leaking, soil testing will be done. Mr. DeLucia asked if the county had to be there when the tanks are removed. Mr. Mercado said “no”, but Mr. DeLucia advised him to verify that information.

Mr. Pavalow asked if foundations had to be removed. Mr. Barrett said he wasn’t really concerned with that, and was more concerned with abating the asbestos. The site has to be left a clean, level site. Mr. Mercado said they will try to use material from the site for filling. If it can’t they will bring in material and get a manifest of where it came from. He said all utilities were disconnected in 2006. Mr. Barrett asked if the red house was included. Mr. Mercado said it was.

Mr. Brancati said the Board has until next Monday to review the plan. Mr. DeLucia suggested expediting the Town Board’s approval. Mr. Brancati said he would rather not rush. Mr. Barrett said the permit process will not hold anyone back.

Mr. Brancati asked Mr. Barrett to come back before the Board in two weeks for an update.

COMMENDATION – Peter Barrett

Mr. DeLucia and the Town Board extended their thanks to Deputy Building Inspector Peter Barrett for all his efforts in the Building Department.

HIGHWAY DEPARTMENT – Disposal of Excess Equipment

The Board discussed the disposition of excess equipment that was not purchased at a recent auction.

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Superintendent of Highways be and hereby is authorized to re-bid two vehicles left from the 2007 surplus sale. If no bids are received, the Superintendent of Highways is authorized to dispose of both vehicles in accordance with State law.

HIGHWAYS – Discussion re Encroachments

Highway Superintendent Peter Ripperger discussed the issue of encroachments on road rights-of-way with the Town Board. Mr. Ripperger said State Highway Law Chapter 189 deals with encroachments. The right of way of a normal road by state law is 50 feet, 25 feet on each side from the center of the road. That normally includes a 10-foot area for utilities, for disposal of snow etc. He said the Town is unique in that it doesn't have a 10-foot right of way on many roads. In 1970 the Town took over many roads, mostly in the lake areas in Town, and took over only the travelled way, no rights of way. The Town is only responsible for the remaining and existing drainage. The right of "prescriptive use" says the Highway Department has the right of passage plus the shoulder and ditch, four or five feet, for removal of snow. Mr. Ripperger said when people have been injured in those right-of way areas, it becomes a Town liability. He cited as an example a current Lewisboro case where a homeowner built a grandiose mailbox right on the edge of the road. He asked who is liable when the mailbox is damaged. The insurance company said they will support the Town, but questioned whether the mailbox belongs where it is.

Mr. Ripperger said the newer roads have a 50 foot width so there are fewer problems. He also stated that the Town needs a Code Enforcement Officer to deal with some of the encroachments. In some of the lake areas people are putting stone walls right up to the road. On Old Pond Road the driver must take the sanding truck backwards up the road because the truck cannot turn around at the end. They have to plow the road with the plow sideways because of fencing that encroaches on the road.

Mr. Ripperger wants to be sure the Town is always protected, and also he wants to know if people can legally place boulders and fences up to the edge of the road. Mr. Ripperger said mailboxes and rock walls are encroaching. Mr. Brancati noted a mailbox in Michelle Estates that is sitting right on the curb. Mr. Ripperger said NYMIR (New York Municipal Insurance Reciprocal) has ruled that the taxpayer is responsible for anything on their property.

Mr. Pavalow asked what happened if the snow or plow pushes and destroys the wall. Mr. Ripperger said the State has said the Town is not responsible for anything damaged during the normal course of emergency snow removal. Mr. Brancati said it is important to note that no Highway employees ever deliberately damage property, nor does the truck actually hit the mailbox, etc. It is the snow that is being pushed that causes the damage.

Mr. Ripperger cited a case in upstate New York where a motorist was killed when the car hit a group of mailboxes on a post. That town is being held liable for allowing the mailboxes to be put in the right of way. He stressed the need to have an ordinance to cover the Town in such circumstances. Mr. Ripperger said former Town counsel Les Maron said the Town should have Old Pond Road surveyed to establish the roadway boundaries.

Ms. Bacal said the Town's insurance company has said clearly they will cover the Town, but they are watching the outcome of that upstate case

After further discussion, Mr. Brancati suggested tabling the issue until a Code Enforcement Officer is hired.

HIGHWAYS – Discussion re Snow Emergency Parking Prohibitions

The Board discussed a request from Highway Superintendent Peter Ripperger for a ban on parking on Town streets during snow removal and during snow emergencies. Mr. Brancati said a snow emergency would be declared by the Supervisor, and the public so advised.

Mr. Ripperger noted that State law gives him the authority to have cars towed off the street if they are impeding snow removal. He said in some neighborhoods there are many residents who park their cars on the street during a storm so their driveways can be plowed. That causes great difficulty to the snowplow drivers who cannot maneuver around the parked cars. He said other municipalities have “no parking” on the street from November 15 to April 15.

Mr. Ripperger asked that adequate funding be provided to the Police Department so a police officer can be made available to the Highway Department to issue tickets for cars parked on the street.

Mr. Brancati said the Board can draft an ordinance for “no parking during snow emergencies” and from November 15 to April 15. The Board will talk to the Police Chief next fall and at budget time to ask that an extra officer be assigned during snow storms.

POLICE BENEVOLENT ASSOCIATION – Authorize Agreement

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Supervisor be and hereby is authorized to sign the consolidated Police Benevolent Association agreement, subject to counsel’s review.

TREE CUTTING – Discussion re Todd Farm Limited

Ms. Bacal said she drafted a restrictive covenant regarding the use of property on Todd Road for a kosher meat goat farm. She suggested the covenant be reviewed by the Planning Board attorney Larry Praga. She has also discussed it with the Town Planner Will Agresta and Wetland Inspector Bruce Barber. She would like some more time to work on the document and to receive comment from Mr. Barber on the required resolution. The Board discussed potential restrictions to be included.

Ms. Bacal said the draft will be circulated to Board members.

LAND TECH CONTRACT – Authorize Signature

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Supervisor be and hereby is authorized to sign an agreement with Land-Tech Consultants, Inc. as amended by the Town Attorney, said agreement being for revisions to the engineering design of improvements at the Truesdale Estates Beach on Lake Truesdale, and said work to be done for a fee not to exceed \$3,000, and such authorization being subject to receipt of a clean copy of the agreement.

LEON LEVY PRESERVE PARKING LOT – Authorize Changes to DEC Application

Mr. Brancati reported that the DEC sent back as incomplete the Town’s application regarding the new parking lot on the Leon Levy Preserve. The DEC wants the Town to remove some invasive plant species and replace them with native species, and move the driveway for better sight lines. The Town’s planning consultant, Will Agresta, wants Town Board authority to make the changes.

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize changes to the Leon Levy Preserve parking lot permit application as requested by the New York State Department of Environmental Conservation.

LAND DONATION – Offer to Donate

The Board discussed a request to donate a small parcel of land to the Town. The parcel is located at the southeastern corner of the intersection of Route 35 and 123. The Board will investigate the property and discuss the issue further.

TOWN BOARD – Discussion re Action Items

The Board reviewed their list of action items.

GRANTS – Resolution of Support for Grant re Stormwater Financial Impact Study

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

THE VOTE:	Yes	- Brancati, DeLucia, Pavalow, Perruzza, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board of the Town of Lewisboro does hereby express its support of a grant application for a cost analysis of the new stormwater regulations to be required of the Town.

EXECUTIVE SESSION – Employment History

On motion by Mr. Brancati, seconded by Mr. Perruzza, the Board voted 5-0 to go into executive session to discuss the employment history of a particular person.

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

ADJOURNMENT

On motion by Mr. Brancati, seconded by Mr. DeLucia the Board voted 5-0 to adjourn at 10:36 p.m.

Kathleen G. Cory

Town Clerk