

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on May 16, 2006 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

PRESENT: Supervisor - Edward P. Mahoney
Councilmen - Peter DeLucia, Al Perruzza, Suzanne Whalen
Town Clerk - Kathleen G. Cory
Town Attorney - Jessica Bacal

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Margaret Hall from Junior Girl Scout Troop 1338 and Kenny Hall from Cub Scout Pack 1, Den 6.

MINUTES – Approved

On motion by Mr. Mahoney, seconded by Mrs. Whalen, the Board approved the minutes of April 11, 2006.

PUBLIC COMMENT PERIOD

Alan Cole, Todd Road, Katonah addressed the Board regarding the emergency meeting that was held on May 12, 2006.

Anne Eaton and Charles Merten also addressed the Board regarding the special permission that was given to the Jewish Family Congregation for an outdoor event not normally allowed. Mrs. Whalen said the Board was assured that such a misunderstanding will not happen again.

Bobbe Stultz of Goldens Bridge addressed the Board regarding the bonding resolutions for the pool and Oakridge utilities.

Mr. Mahoney read a letter from Bonnie Robins of Waccabuc regarding the bond for the pool.

DRUG ABUSE PREVENTION COUNCIL – Annual Report

The Board acknowledged receipt of the annual report from the Drug Abuse Prevention Council.

PARKS AND RECREATION – Town Pool – Discussion re Construction Problems

Superintendent of Parks and Recreation Dana Mayclim reported on the status of the pool construction. She said the weather had been good until this week and rain is delaying work somewhat. The end wall that needs to be replaced has been removed and the new wall will be poured tomorrow, weather permitting. The wading pool is almost finished. It has been painted and the play structure will be installed soon. Installation should take five days. Of the three pools

the wading pool will be up and running first. Scott Pools will be working the next two Saturdays in order to meet the June 1 deadline. The decking is complete around the wading pool as is the decking from the guard house to the main pool. The contractors will be pouring four panels, weather permitting, tomorrow at the deep end of the main pool. Four more remain to be done.

Ms. Mayclim said architect John Ciardullo has donated the stone veneer for the pump house and that is almost complete. 100 gallons of epoxy paint have been delivered and the Parks Department maintenance staff will start painting as soon as the contractor is finished. The fencing and landscaping bids will be opened on Friday morning.

Ms. Mayclim said she met with the Superintendent of Parks and Recreation in the Town of Bedford, Bill Heidepriem, who has given the swim team 7 days to use one of his facilities. The Town needs to provide its own lifeguards and pay for the supervisor on duty. The dive team will have access to their pool complex all summer. Ms. Mayclim also confirmed that the diving boards ordered are sixteen-foot Duraflex boards. Mr. DeLucia said he and Ms. Mayclim are in daily contact about the pool, and confirmation of the diving board contract specifications is important. He also noted that Scott Pools is paying the difference between the price of the epoxy paint and latex paint. There will be modifications to the contract with the contractor.

Mr. DeLucia said purchased water will be used to fill the pool quicker. The target date for opening is a little before July 4. Mrs. Whalen expressed concern about the construction going on at the dive pool when the main and wading pools are in use. Ms. Mayclim said there will be safety fencing and a construction schedule will be arranged to minimize disturbance when the pools are in use.

Mr. Mahoney asked what the reaction has been to the delayed opening of the pool. Ms. Mayclim said she wrote a "Letter to the Editor" published locally, sent letters to everyone who purchased pool memberships to calm their issues, and offered a credit or refund. She said the reaction so far is positive but that may change as it gets closer to camp season. Mr. DeLucia said the goal is to open the weekend before camp opens. The Board agreed that having JMOA Engineers on site has been a tremendous help. Problems might have been avoided had they been on board earlier. The company will stay on for an additional \$22,000 for the main and wading pools, and another \$25,000 for the diving pool.

Mr. Mahoney noted the Board is in an "interesting" situation with a non-bonded contractor and under difficult circumstances. Mr. DeLucia said the Town is taking its time to be sure the project reaches a successful conclusion.

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

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

RESOLUTION

RESOLVED, that the Town Board does hereby authorize an extension to the JMOA Engineering contract at the same hourly rate to provide for continued supervision of the construction of the main pool, wading pool and dive pool. It is understood that the estimated charge will be an additional \$22,000 for the main pool and wading pool, and \$25,000 for the dive pool.

STATE POLICE – Proposed Headquarters – Update

Supervisor Mahoney introduced County Legislator Ursula LaMotte and provided an update on his plan to bring the New York State Police headquarters to a site on Route 22 in Goldens Bridge. Mr. Mahoney said he met yesterday with the County Executive regarding Legacy funding for ballfields on the same property.

Legislator LaMotte addressed the Board explaining that the County funding for ballfields is still available to the Town. It seems that the Route 22 site might be feasible. There was much discussion yesterday about the project. She reminded the Board that the fields must be available to all County residents, and there may be other requirements from the County, specifically a provision for affordable housing. Mrs. LaMotte said the County's Parks Commissioner Joseph Stout and engineers will come up and look at the property. After that the dialogue will continue toward developing plans. The County Legislature must vote on the project and Mrs. LaMotte will seek their support for Lewisboro's project.

LEON LEVY PRESERVE - Update

Ms. Bacal reported that when she was first appointed Town Attorney she called the NYS Department of Environmental Protection to verify the status of the \$1,000,000 payment due the Town for the purchase of an easement on the Leon Levy Preserve. She found that the transaction was stalled pending resolution of an encroachment on the property by a Lewisboro resident. She said after much discussion an agreement has been reached to exchange another portion of the property for the encroachment area. The payment will be reduced by about \$1,000. The next step is the closing and the target date is hopefully mid-November or December of this year. The survey will be revised to reflect the change in the easement. Once the New York City Mayor's office approves the agreement it can move toward the closing.

Mrs. Whalen commended Ms. Bacal for her efforts to resolve the encroachment problem.

TOWN PARK – Town Pool – Bonding Resolution

Mr. Mahoney introduced a resolution to extend the bond for the swimming pool from a five-year period to a fifteen-year period. Mrs. Whalen questioned the wording of the proposed resolution. Michael Melillo, Director of Finance said that bonding counsel has advised that since no money had been spent as of the date of the original bond resolution on October 17, 2005, all the cost is eligible for bonding. Mrs. Whalen questioned the wording "should be reduced by any money appropriated for that project." Mr. Melillo said it means "as of that date." Mrs. Whalen asked the Town Attorney to be sure the Town is not limited and can bond the entire cost. Ms. Bacal said

bonding counsel was comfortable with the Town moving ahead with this. Mrs. Whalen asked that the question be double-checked with bond counsel to be sure the Town can bond the entire cost of the pool. Mr. Melillo said that question was specifically asked.

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

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

RESOLUTION

BOND RESOLUTION DATED MAY 16, 2006.

A RESOLUTION AMENDING THE BOND RESOLUTION DATED OCTOBER 17, 2005, AUTHORIZING THE ISSUANCE OF UP TO \$2,298,000 BONDS OF THE TOWN OF LEWISBORO, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF THE CONSTRUCTION OF IMPROVEMENTS TO AND THE RECONSTRUCTION OF THE TOWN SWIMMING POOL LOCATED ON ROUTE 35 IN SOUTH SALEM, WITH THE AMOUNT OF SAID BONDS ULTIMATELY TO BE ISSUED TO BE REDUCED BY ANY APPROPRIATION OF OTHER TOWN FUNDS FOR SAID PROJECT, IN AND FOR SAID TOWN.

WHEREAS, the Town Board of the Town of Lewisboro Westchester County New York adopted a bond resolution on October 17, 2005, authorizing the issuance of up to \$2,298,000 bonds of said Town to pay the cost of the construction of improvements to and the reconstruction of the Town swimming pool located on Route 35 in South Salem, in and for the Town of Lewisboro, Westchester County, New York, including incidental expenses in connection therewith, and providing for a period of probable usefulness of fifteen years and a maximum maturity of said bonds of five years, and

WHEREAS, the Town Board now wishes to increase the maximum maturity of said bonds from the five years provided in said bond resolution to the fifteen-year maximum maturity permitted by the Local Finance Law of the State of New York; and

WHEREAS, all conditions precedent to the financing of the capital purposes hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, to the extent required, have been performed; NOW THEREFORE BE IT

RESOLVED, by the Town Board of the Town of Lewisboro, Westchester County, New York, as follows:

Section A. The bond resolution of this Town Board dated and duly adopted October 17, 2005, authorizing the issuance of up to \$2,298,000 bonds to pay the cost of the construction of improvements to and the reconstruction of the Town swimming pool located on Route 35 in South

Salem, in and for the Town of Lewisboro, Westchester County, New York, including incidental expenses in connection therewith, is hereby amended, in part, to read as follows:

“Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years pursuant to subdivision sixty-one of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds authorized will exceed five years”

“Section 11. Upon this resolution taking effect, the same shall be published in summary in the Lewisboro Ledger, the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.”

“Section 12. This resolution is adopted subject to permissive referendum in accordance with Section 35.00 of the Local Finance Law.”

- Section B. The validity of such bonds and bond anticipation notes may be contested only if:
- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
 - 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
 - 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section C. Upon this resolution taking effect, the same shall be published in summary in the Lewisboro Ledger, the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section D. This resolution is adopted subject to permissive referendum in accordance with Section 35.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

<u>Edward Mahoney</u>	<u>VOTING</u>	<u>Aye</u>
<u>Peter DeLucia</u>	<u>VOTING</u>	<u>Aye</u>
<u>Al Perruzza</u>	<u>VOTING</u>	<u>Aye</u>
<u>Suzanne Whalen</u>	<u>VOTING</u>	<u>Aye</u>

The resolution was thereupon declared duly adopted.
* * * *

HOUSING COMMITTEE - Report

Jerome Kerner, Chairman of the Housing Committee, and committee members Neil Alexander and David Burger addressed the Board asking for an amendment to the Zoning Ordinance to provide for development of small-scale, in-fill affordable housing projects.

Mr. Kerner said the committee sees itself as ombudsman for the concept of affordable, moderate-income housing. The underlying reality is that there are segments of the population, most specifically younger people ages 20-30 who are finding a gap between the 20-somethings and 50-somethings. Speaking of the fire departments, Mr. Kerner said the younger volunteers need housing and the fire departments need their younger volunteers. He said the committee expected to hear from senior citizens asking for housing help, but that has not been the case.

Mr. Kerner said he saw the Town's role as facilitators for affordable housing. He said sites for affordable housing would most likely be in-fill lots, not whole new developments. He asked for a liaison from the Town Board to help guide the committee.

Committee member Neil Alexander said senior citizens are somewhat reluctant to ask for help with housing. He said the committee was surprised that the Town's accessory apartment law has not generated any affordable housing. He mentioned that the Town's firefighters have been vocal in their need for housing for their volunteers.

Mr. Alexander discussed ways to encourage private developers to build affordable housing units. Mr. DeLucia noted that fire and ambulance corps volunteers are not included on the preference list in the Town's Zoning Ordinance and that should be corrected. He suggested continuing the discussion in a work session.

Mr. Kerner said he has been in a lot of senior housing where conditions were shocking because the older resident could not maintain their home. He said the Town should do inspections of those homes to see how people are living and offer them a safety net. Dana Mayclim, Superintendent of Parks and Recreation said her department has an employee who assists home-bound elderly in the community.

Mr. Perruzza asked the committee members to put together a list of what they would need in order to get an assessment of potential needs in the community and an assessment of potential locations, and bring it to a work session.

FINANCE – Review of Auditor's Report

Director of Finance Michael Melillo reviewed the auditor's report for the year 2004 with the Board. He said that in 2003 legislation went into effect that required towns to value their infrastructure, roads, bridges, sewer plants, etc. Last year was the first year the Town of Lewisboro was required to comply, and an outside firm did the valuation. Unfortunately they made a few mistakes and that delayed the auditor's report until now.

Mr. Mellillo presented a synopsis of the auditor's report in which the auditor said the Town's internal control system is very good and it is the auditor's unqualified opinion that the Town is in good financial condition. One point of interest is the fund balance. Mr. Melillo said in 2003 there was a lot of discussion about the Town's fund balance. The previous administration talked about the fund balance going up in 2004. The former Supervisor made mention of it in his budget letter for 2005. However, in looking at the numbers supplied by the auditor between 2003 and 2004 there was a \$500,000 reduction in the fund balance. Mr. Melillo said the fund balance goes down from \$2.6 million to \$1.3 million and it will drop further due to problems with the Leon Levy Preserve financing.

Mr. Melillo said in 2005 the Town had an excess of \$65,000 in revenue over expenses. Adding that number to the fund balance brings it up to \$2.7 million, but the Town Board transferred \$1.5 million to pay for the pool renovations. That brings the number down to \$1.2 million for available fund balance. Mr. Melillo said there are a few mistakes in the 2006 budget with regard to the Bell project. \$300,000 was listed as a donation but that money was pledged over a three-year period, and only \$100,000 will be received this year. Mr. DeLucia noted that the budget assumes \$2,100,000 in revenue for the sale of those homes in 2006 and it assumes a \$1,000,000 payment from New York City, in addition to the \$300,000.

Mr. Melillo said the former administration anticipated that all the revenue would come in by late June of this year, and that is not going to happen. The Director of Finance said the Town will have to renew the bond anticipation note taken out for the payments on the Preserve.

Mr. Perruzza said the Town has been hit with a "perfect storm" – revenues have been overstated by a significant amount and the expenses have been understated and will continue to increase.

Mrs. Whalen asked about the \$65,000 grant from Senator Leibell to pay the interest on the bond anticipation note. Mr. Mahoney said he thought the Town had to pay the interest and get reimbursed. Mr. Perruzza said the Board needs to look at all the projects and the revenue and expenses, see the difference and look for new sources of funding. Mr. Melillo said fortunately some Board members had the foresight to lobby for a bond for the pool work.

Mr. Mahoney asked if the Town could have purchased the Levy Preserve only when all the pieces were in place for an immediate sale of the houses, receipt of DEP money etc. Mrs. Whalen said that wasn't considered in the negotiations. Mr. DeLucia noted all the approvals that were needed for subdivision, etc. and it was unrealistic to think they would happen in a short period of time.

Mr. Perruzza said the Board needs to look at projects underway to re-project their budgets. The Board will hold a work session on finances in June.

CLAIMS – Approved for Payment

On motion by Mr. Mahoney, seconded by Mr. DeLucia the Board voted 4-0 to approve payment of claims in the amount of \$396,464.82.

REPORTS – Monthly

On motion by Mr. DeLucia, seconded by Mrs. Whalen, the monthly report from the Planning Board was received and filed.

JUSTICE COURT – Resolution re Plea Bargaining of Traffic Tickets

Mr. DeLucia said the Town has been advised that the New York State Police will no longer be permitted to negotiate plea bargains on traffic tickets in local courts. The Westchester Municipal Officials’ Association passed a resolution in opposition to that move, and has asked member municipalities to do the same.

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

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

RESOLUTION

WHEREAS, the New York State Police have advised the State’s District Attorneys that, effective September 1, 2006, state police officers pursuant to New York State Police regulations, will be prohibited from “plea bargaining” traffic tickets in local criminal courts throughout New York State, and

WHEREAS, this new policy will impact the manner in which traffic tickets are adjudicated in the local criminal courts in Westchester County; and

WHEREAS, the plea bargaining system is essential to keeping the cost of operating local criminal courts feasible for the taxpayers; and

WHEREAS, municipalities rely upon fine money garnered from traffic tickets to fund all or a substantial portion of the operating expenses associated with local criminal courts; and

WHEREAS, local criminal court justices are prohibited from negotiating pleas themselves and must rely upon the district attorney or his or her designee to negotiate pleas in traffic cases; and

WHEREAS, the district attorney’s office in Westchester County currently relies upon State Police officers to negotiate traffic ticket plea bargains in the County’s local criminal courts; and

WHEREAS, it is possible that a municipal officer might be called up to accept a designation from the county district attorney’s office to negotiate plea bargains on behalf of that office, imposing a new unfunded mandate on that municipality.

NOW THEREFORE, BE IT

RESOLVED, that the Town of Lewisboro supports adoption of A.10710 introduced by Member of the Assembly Lentol and S. 7354 introduced by Senator Bonacic which would prohibit the division of State Police from enacting rules or regulations limiting a member of the State Police force from modifying or recommending the modification of certain charges before a court relating to a violation of the Vehicle and Traffic Law; and be it further

RESOLVED, that a copy of this resolution be sent to Governor George E. Pataki; Joseph L. Bruno, majority Leader of the Senate; Sheldon Silver, Speaker of the Assembly; Senator Elizabeth Little, Chair of the Local Government Committee; Assemblyman Robert Sweeney, Chair of the Local Government Committee; Senator Owen Johnson, Chair of the Finance Committee; Assemblyman Herman D. Farrell Jr., Chair of the Ways and Means Committee; Senator John A. DeFrancisco, Chair of Judiciary Committee; Assemblywoman Helen E. Weinstein, Chair of Judiciary Committee; and the members of the Westchester County delegation to the Senate and Assembly.

TOWN OFFICIALS AND EMPLOYEES – Resignation of Emily Rux

Mr. Mahoney advised that Emily Rux has resigned as part-time secretary to the Zoning Board and Architecture and Community Appearance Review Council.

MEETINGS – Dates Set

Mr. Mahoney announced that the next Town Board meeting will be held at 7:30 p.m. on June 6 at the Town House, and the next work session will be held at 7:30 p.m. on May 23 at Cyrus Russell Community House, Cross River.

PUBLIC COMMENT PERIOD

There was no comment from the public.

EXECUTIVE SESSION – Employment History

On motion by Mr. Mahoney, seconded by Mr. DeLucia, the Board voted 4-0 to go into executive session to discuss the employment history of a particular person. On motion by Mr. Perruzza, seconded by Mrs. Whalen, the Board voted to come out of executive session.

TOWN OFFICIALS AND EMPLOYEES – Step Increase Authorized for Michael Lombardi

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

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

RESOLUTION

RESOLVED, that the Town Board hereby grants a step increase to Michael Lombardi from Park Groundskeeper Step 3 to Park Groundskeeper Step 4 per the 2005-2007 agreement between the Town and the Municipal Workers Association.

OPEN SPACE ADVISORY COUNCIL – Appointment of Linda Press-Wolfe

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

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

RESOLUTION

RESOLVED, that Linda Press-Wolfe be and hereby is appointed to the Open Space Advisory Council for a two-year term ending December 31, 2007.

ADJOURNMENT

On motion by Mr. Mahoney, seconded by Mr. DeLucia, the Board voted to adjourn at 10:20 p.m.

Kathleen G. Cory
Town Clerk

