A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on June 28, 2010 at 8:00 p.m. at the Lewisboro Library, 15 Main Street, South Salem, New York.

PRESENT:  Supervisor - Charles Duffy  
Councilmen - Peter DeLucia, Frank Kelly, Bruce Pavalow, Daniel Welsh  
Town Clerk - Kathleen G. Cory  

Also attending was Facilities Maintenance Manager Joel Smith and Attorney for the Town Anthony Molé.

Mr. Duffy called the meeting to order at 8:05 p.m.

EXECUTIVE SESSION – Employment History

On motion by Mr. Duffy, seconded by Mr. DeLucia, the Board voted 5-0 to go into executive session to discuss the employment history of a particular person. On motion by Mr. Duffy, seconded by Mr. Kelly, the Board voted 5-0 to come out of executive session at 8:40 p.m.

PLEDGE OF ALLEGIANCE

Mr. Duffy led the Pledge of Allegiance to the flag.

PUBLIC COMMENT PERIOD

BUDGET – Public Comment re Town Finances

Richard Sklarin, 80 Park Road, Goldens Bridge addressed the Board regarding suggestions to increase revenue and cut Town expenses. He suggested the Town explore the sharing of departmental services with the Town of North Salem. He also suggested public/private partnerships be sought to develop more places of business in Lewisboro.

COMMENDATION – Barbara Woodstead

Mr. Duffy read a letter of commendation for Building Department secretary Barbara Woodstead.

CONSENT AGENDA

On motion by Mr. Pavalow, seconded by Mr. DeLucia the Board voted 5-0 to remove the Peddler’s License from the consent agenda.

On motion by Mr. Pavalow, seconded by Mr. Kelly the Board voted 5-0 to approve the minutes of a Town Board meeting and to appoint Compliance Officers under the Americans with Disabilities Act.
THE VOTE: Yes - Duffy, DeLucia, Kelly, Pavalow, Welsh (5)
No - None (0)
Absent - None (0)

MINUTES – Approved

On the previous motion and second the Board voted 5-0 to approve the minutes of the June 14, 2010 Town Board meeting.

AMERICANS WITH DISABILITIES ACT – Appointment of Compliance Officers

On the previous motion and second the Board adopted the following resolution

RESOLUTION

RESOLVED, that Building Inspector Peter Barrett and Facilities Maintenance Manager Joel Smith be and hereby are designated Americans with Disabilities Act Compliance Officers.

PEDDLING LICENSE – Conditionally Approved

The Board reviewed an application for a license to peddle educational books in town. The Attorney for the Town advised that the bond posted did not comply with the Peddling Law. After discussion of the application, the Board voted on motion by Mr. Kelly, seconded by Mr. DeLucia as follows:

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

RESOLUTION

RESOLVED, that the Town Board does hereby approve the application of Alyssa R. Sage to peddle educational books and software for a period of one year provided the applicant posts the required bond in the amount of $250 either by a surety or in cash.

HIGHWAYS – Brand Drainage Improvement Plan – Request for Extension

The Board met with Leigh Brand who requested another extension of his approval to alter a Town drainage easement on Canaan Circle. Mr. Brand requested a two-year extension. Mr. DeLucia noted that last year when he requested an extension the Board clarified that the extensions could only be for one year, and that work would have to completed within one year, not just begun. He said the Board can only give a one-year extension.

Mr. Welsh clarified that what Mr. Brand proposed was to bury an existing drainage area which would be an improvement. Mr. Brand said the Highway Department is responsible for cleaning the easement and the improvement would make it easier for them to do so. He said there is no detriment to the Town if he does not make the drainage improvement requested. Mr. Brand said
the process to get the initial approval for the drainage plan was “extraordinary”, taking him 12 months and about $15,000 to satisfy all concerned parties.

After discussion, the Board asked Mr. Brand to determine how much it would cost for him to clean the drainage easement, and the Board will ask the Highway Superintendent how much it costs the Town to do it. They asked Mr. Brand to come back before the Board at the July 12 or 19 meeting.

**BUDGET – Review of Town’s Financial Situation**

Mr. Duffy distributed a report to the Board showing Town accounts that are currently over budget and a list of adjustments needed. He reported that the auditors are presently doing field work in the Town and by the next meeting he should be able to provide a better figure on the status of the Town’s fund balance.

Mr. Pavalow clarified that when the auditors are finished the Board will know where the Town stands for 2009. He said he read in the newspaper that the Town is still $500,000 behind. Mr. Duffy said the Town was going to use $282,000 from the Bell property sale proceeds to bring the fund balance up to zero but found they couldn’t do that. Then the Board was going to use $668,000 in 2010 to service debt, including interest. It was determined the Town could only use $415,000, which they did use, so that’s another $253,00 so those two numbers together make up the $500,000 shortfall.

Mr. Pavalow said he would like to know after 6 months in 2010 where the Town stands re expenses and revenue, and then how the Board projects the next six months will go based on revenues so far. Then the Board will have a total picture of whether there will be a surplus or a deficit. Then the Board has to either increase revenues or decrease expenses. He said the Board has to start focusing on how they are going to make up that $500,000; a concrete plan on what they are going to do.

Mr. DeLucia said the early retirement legislation proposed is important. The work sheets the Board has to prepare for Part A will show who is eligible, who will retire if the law is adopted, and what the savings will be. That is part of the plan. Mr. Pavalow said he would like to have a comprehensive plan of all the pieces of the plan and see if they are viable options. He would like to see the Board concentrating more on the deficit as a comprehensive approach to solving the problem.

Mr. DeLucia noted that the effort to get Home Rule legislation for parkland alienation to allow the construction of a cell tower is proceeding. There is the potential for the Town to receive $80,000 in revenue a year. He said he and Supervisor Duffy have been working very hard on that effort.

**TOWN PROPERTY – Donation of Office Furniture**

Mr. Duffy noted that an employee has located a source for free office furniture to furnish the new office space the Town is renting in Cross River. The only expense to the Town would be for moving the furniture from its current location to a loading dock. It is expected to cost between
$500 and $1,000. In answer to the Board’s questions, Connie Green O’Donnell explained that the equipment being donated is in excellent condition.

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

**THE VOTE:**
- Yes - Duffy, DeLucia, Kelly, Pavalow, Welsh (5)
- No - None (0)
- Absent - None (0)

**RESOLUTION**

RESOLVED, that the Supervisor be and hereby is authorized to spend up to $1,000 to move office furniture being donated to the Town by Riverview at Purchase, Phoenix Capital Partners, LLC.

**AMERICANS WITH DISABILITIES ACT – Update on New Office Space**

In response to a question from Mr. Welsh, the Supervisor said the landlord at the Cross River Shopping Center has filed for a building permit to build out the space the Town is leasing. It is expected the space will be ready for occupancy in 60 to 90 days. That would mean being able to start moving out of Onatru right after the Library fair.

**WATERSHED – Update on East of Hudson Grant**

Supervisor Duffy said he has been reviewing the financial records regarding the $312,000 grant the Town received in 2006 for water quality improvement projects. Other towns were able to find additional grant money to cover their match requirements but Lewisboro did not. The Town was going to match it dollar for dollar. To date the Town has spent about $255,000 in total—$127,500 of the $312,000 and $127,500 of our match. The grant period ends in July of 2011. Mr. Duffy said he called the county because the Town is now up against a scheduling problem as time is running out to complete the remaining $370,000 worth of work. He would like to escrow the funds and be compliant and keep working rather than return the money. Some towns are returning their funding because they can’t get their projects approved. If the Town were to consider doing that the Town would have to borrow $185,000 plus interest to send back. The other option is to borrow the $370,000 and do the work.

Mr. DeLucia asked if the Town could use money from the Consolidated Highway Improvement Fund as a match and the response was the Town could not. Mr. Duffy said the Town has $1.3 million worth of bond anticipation notes coming up in July and the Town could increase the amount. Mr. Kelly said if the Town borrows in order to pay back the grant the cost of the work already completed goes up. If the Town borrows to extend the grant money then some value is returned for that borrowing.

After further discussion Mr. DeLucia said they should continue the conversation with the county since they put the matching requirement on the grant. If they see the direction the Town is going he would hope they would be inclined to grant an extension. Mr. Duffy recommended at least
borrowing the $312,500 the Town said it would match. Mr. DeLucia said the Board wanted to get as much “in kind” work as possible. If the Town borrows the money, it can be used to cover the projects that are planned. Otherwise the Town does not have the money for them. Mr. Kelly said there are a lot of contingencies. Mr. Welsh said a lot of these projects are being done to satisfy MS-4 requirements.

**LAND USE TASK FORCE – Establishment**

Mr. Duffy said he wanted to form a Land Use Task Force and announced the following as members of the group: Ed Delaney, Tim Cronin, Al DelBello, John O’Donnell, Lou Taffera and Dean Travalino. Mr. DeLucia said he had spoken to Ed Delaney who will chair the task force. He said Mr. Delaney would like to meet with the Board to get some direction. He noted Mr. Delaney has many years’ experience with Westchester County and now works for an engineering firm, Tim Cronin has been on the Town’s Conservation Advisory Council, previously worked on the wetland ordinance, former Lieutenant Governor Al DelBello is an attorney and co-founder of the Westchester Land Trust, John O’Donnell is a member of the CAC, an attorney and has done a lot of work on trails, etc., Lou Taffera is a zoning and land use attorney, and Dean Travalino is very involved with the ADA committee and has a lot of land use experience. Mr. DeLucia said he was very happy to see the committee formed.

Mr. Welsh noted that this committee was originally a review of the wetland law and now it is a land use committee. He reviewed the history of recent attempts to amend the wetland law. He said he would like to know what the goal or mission of this group is.

Mr. DeLucia said there were a lot of questions on prior proposals. He said he, Mr. Duffy and Mr. Kelly talked about it when campaigning. They wanted a task force of extremely qualified individuals, not necessarily Board members. They wanted the group to look at what was proposed, see if we can go further, get a definition of wetland, a size area, an envelope around a house, and the economics of what the Town is spending on having the wetland inspector go out on every building permit application.

Mr. Pavalow asked that the Board make a formal resolution to establish the task force, second it and then move ahead. Mr. Pavalow offered a motion to establish a regulation review task force, the motion was seconded by Mr. DeLucia, and Mr. Pavalow called for discussion.

Mr. Welsh said wetlands are reported by the national wetland inventory at more than one million acres, more than 3% of the land area of New York State placing it 22nd among states for existing land area considered to be wetlands, and 30th in total area. These numbers reflect a dramatic reduction in wetlands due to human activities in the past 300 years to less than half their former extent in the coterminous 48 states. The estimated loss of 60% in New York places it 21st in the list of states for acres of historic wetlands lost to agricultural, industrial and urban uses. He noted that in 2004 the White House moved beyond a policy of “no net loss” of wetlands to have an overall increase of wetlands, which is now national and New York State policy.

Mr. DeLucia noted that New York does have an established size for wetland. Mr. Welsh said the State does not recommend that municipalities adopt that or map all their wetlands. Mr. DeLucia said it is not fair to the homeowner not to have a map.
Mr. Duffy said he is looking forward to what the task force has to say.

Mr. Welsh continued his comments, cautioning against language that might be critical of a previous group that worked on proposed changes. Mr. DeLucia noted deficiencies in an earlier version of proposed changes. After further comments Mr. Welsh said calling the committee a land use task force involves a tremendously broad area. He asked if they would be tasked with looking at new concepts in zoning, or would the Board pick out their pet projects and ask them to look at them.

Mr. Welsh said another point he wanted to make was that the Town went through years of lawsuits and at the end the Town was completely vindicated and the law declared functional. He said this is a really important area and cautioned against entering into it without quantifying and identifying the problem. He wouldn’t send people of this stature out to settle a problem that he’s not sure exists. Mr. Welsh said he would like a clear mission. He cautioned the Board not to rush to form this committee. He said the proposed changes would have a significant environmental impact and the Board will need a high level of environmental impact statement, not just a negative declaration. Mr. Welsh said if the Board puts in a half-acre definition, probably the majority of the wetlands in town automatically become “fair game”, calling it a major setback. Mr. Welsh noted there might be an impact on the Town’s MS-4 permit for stormwater discharge.

Mr. Welsh said if the plan was to benefit homeowners the earlier proposals would have done that. The new proposal is a big mission that will further delay that benefit.

Mr. DeLucia said he could argue Mr. Welsh’s opinion point for point but won’t take the Board’s time. The Board can hear the opinion of the task force. He said he is not looking to water down regulations or have less protection of wetlands or natural resources. He said he strongly feels that if people are comfortable with a code they will not be scared to go to the Building Department, they’re not scared to go to the wetland inspector, they’re not scared to go to the Planning Board, they’re more apt to go there and do the right thing. What happens is that when people feel they’re not getting a fair shake, they do not feel they can go to those agencies, they are more apt to do something without going to the proper officials to do the right thing, and then they damage the environment. Mr. DeLucia said he felt the Board was close to the proposed amendments and no major overhaul of the code was needed. However he said those lawsuits should never have happened. The Town might not have ended up victorious if it had a different judge or it was in a different court. He said he felt the Board needs to be very sure and very sound about what it does in the future. Mr. DeLucia said he didn’t think these people would be willing to be on the task force if they didn’t think they could contribute something and take a look at it in either direction. He said he didn’t think any of them will be looking to try to water down regulations and he didn’t think that’s the intent of this Board at all. They just want to take another look at it and see if there’s a way it can be more homeowner friendly and save our Town money by not having to go through the processes we’re going through now.

Mr. Welsh asked what the mission was as communicated to the task force members. Mr. Pavalow said he heard that Mr. Delaney was going to meet with the Board and find out what the goals and objectives are. Mr. Pavalow said he agreed with Mr. Welsh. He said in his experience when there is a problem and you need somebody to resolve that problem you form a task force. If
you have a long-standing issue like Land Use Task Force, how to use the land, that’s a long-term kind of thing. He said a task force was always designed to solve a particular problem and it was temporary—when the problem was solved the task force was disbanded. Mr. Pavalow said he agreed with Mr. Welsh that the mission statement should come first—what is the issue, what is the problem the Board is trying to solve here. Then you go out and find the people who are experts. He said he knows most of the task force members and they are experts. Whether they are experts in the solutions to this problem he doesn’t really know but they are in their fields very well known. Mr. Pavalow said he would then say to them “here is the task at hand through a mission statement, through deliverables, now we need you to find a solution to this issue and give us a number of solutions, the pros and cons of each solution and the recommended solution.”

Mr. Duffy said he felt with the benefit of this group of people the Board will be able to make some progress on what’s been a logjam and what he’s witnessed as an onerous task to try to invest in your home. He said they will be able to give the Board a critical analysis of the Town’s approval processes, fee structures and zoning procedures and he looks forward to what this panel is going to bring to the Board. He said he felt this Board has worked together well and he’s hoping the Board will be able to help the people in town be able to invest in their homes.

Mr. Kelly said “many hands make light work.” He said the task force members are eminently qualified people who can give the Board some insight. He said it doesn’t hurt to get other opinions on a whole raft of things. He agreed that maybe some guidance would be helpful and suggested crafting a mission statement over the next couple of weeks, in discussions with Mr. Delaney.

Mr. Pavalow said he must go to go back to the Board’s number one priority, and that was the deficit. He said the Board just spent an hour and half talking about an issue which is number 5 on the priority list, not number one. He said the Board must stick to its priorities—the deficit is a major priority, it is going to affect more people than this wetlands issue right now, it is going to affect every taxpayer in this community, and the dynamics and demographics of this community if the Board doesn’t address this now and in the future. If this was a different time, if this was the number one priority he would be for it, and given that is number 5 he feels the Board should be concentrating on number one.

Mr. DeLucia said the Board has been talking about consulting costs and this is a big part of that because property owners spend hundreds of thousands of dollars and the Town spends hundreds of thousands of dollars in consulting costs, permitting costs, employee costs, all to do with administration of zoning and wetland codes. He said the Board has been talking about the cost of the Town’s consultants. Part of the mission statement is a financial aspect because the economy is affecting the Town and affecting our residents and when you talk about the big picture, this is the big picture. This affects people deciding to live in Town, affects people paying their taxes, affects what they spend and affects the Town making an educated decision on what is spent on our consultants. He said the Board has to decide whether to have one consultant do everything or multiple consultants, or is it better to hire a full-time inspector. Mr. DeLucia said those decisions have an economic impact, a major economic pact on a number of levels and that’s why that should be in the mission statement for the task force.
Mr. Pavalow said if that was the only thing in the mission statement he would agree with Mr. DeLucia, but he’s sure it’s not going to be the only thing in the mission statement which means it’s taking the Board’s attention away from the number one priority. Mr. DeLucia said he didn’t see it that way.

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

<table>
<thead>
<tr>
<th>THE VOTE</th>
<th>Yes</th>
<th>No</th>
<th>Absent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Duffy, DeLucia, Kelly,</td>
<td>None</td>
<td>Pavalow, Welsh</td>
</tr>
<tr>
<td></td>
<td>(3)</td>
<td>(2)</td>
<td>(0)</td>
</tr>
</tbody>
</table>

RESOLUTION

RESOLVED, that the Town Board does hereby establish a Land Use Regulation Review Task Force.

*  *

Mr. Duffy said he was proud of some of the Board members in a previous administration. Even though they had a 3 out of 5 majority they didn’t act like it. Mr. Pavalow said they all tried to do what was best. Mr. Duffy said his goal is not to have something seen as a 3 out of 5, but rather to have a discussion and get a 4th if not a 5th. Mr. Pavalow said he appreciated his recognition of that fact because the Board members all tried to do what they thought was best, not because we were Democrat or Republican and he appreciates the Supervisor’s recognition of that fact.

HIGHWAYS – Discussion re Road Repairs

Mr. Duffy noted that the Highway Superintendent gave him a tour of Town roads and they discussed possible repair plans. Mr. Ripperger explained that he is now patching roads to prevent further deterioration. He would like to come before the Board to talk about using the oil and stone method of resurfacing. One vendor is willing to come and do one road as an example for $10,000 as a case study. Then the Board can look at it and talk to the residents. Mr. Duffy said it might be an option for future budgeting.

PARKS AND RECREATION – Commendation to Staff for Fireworks Celebration

Mr. Duffy commended the Parks and Recreation Department for a wonderful fireworks celebration. Mr. DeLucia thanked all the donors, noting that almost $16,000 was donated. He said the cotton candy booth was popular as was the dunk tank. He said almost $575 was made at the dunk tank. (Town Clerk note: Mr. DeLucia volunteered to sit in the tank.) Mr. DeLucia also thanked volunteers who came out the following day to help clean up the park. He thanked Parks and Recreation Superintendent Dana Mayclim, her staff members Laura Stone and Joe Muia and Facilities Manager Joel Smith for all their efforts.
RECYCLING CENTER - Recycling Center Opening

Mr. Duffy said the Town’s Recycling Center has been reopened for the collection of light metal, plastics and paper of any kind. The center will be open on Saturdays from 9 to 12.

CLAIMS – Authorized for Payment

On motion by Mr. DeLucia, seconded by Mr. Kelly the Board voted 5-0 to authorize payment of claims in the amount of $225,920.20.

EMERGENCY MANAGEMENT – Authorize Contract with Westchester County for Shelter Supplies

Mr. Duffy said he met with county emergency management personnel who advised that Westchester County will provide a trailer full of emergency supplies including towels, comfort kits, blankets and pillows for up to 120 people. The county will bring the trailer to the town which will store and insure it and they will resupply the trailer if there is an incident. The trailer is a 7 x 14 trailer, and the insurance will cost $28 per year.

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

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

RESOLUTION

RESOLVED, that the Supervisor be and hereby is authorized to sign an agreement with the County of Westchester wherein the County will provide the Town with emergency shelter supplies and equipment.

MEETINGS – Dates Set

The next regular Board meetings will be held on Mondays July 12 and July 26, a work session will be held on July 19, all begin at 8:00 p.m. at the Lewisboro Library. On July 19 the Board will be holding two public hearings, one on a rezoning request and one on the early retirement incentive.

EXECUTIVE SESSION - Employment History

On motion by Mr. Duffy, seconded by Mr. Kelly the Board voted 5-0 to go into executive session to discuss a contract negotiation and litigation.

On motion by Mr. Duffy, seconded by Mr. DeLucia the Board voted 5-0 to come out of executive session.
FEES – Rescind Building Department Search Fee

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

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

RESOLUTION

RESOLVED, that the Town Board resolution dated November 23, 2009 establishing a fee for a search of departmental files be and hereby is rescinded.

FINANCE – Transfer of Funds in Finance Department Budget

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

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

RESOLUTION

RESOLVED, that the Director of Finance be and hereby is authorized to transfer $18,000 from budget line A1310.0110 to budget line A1310.0470.

AUDITOR – Contract for Additional Work Authorized

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

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

RESOLUTION

RESOLVED, that the Supervisor be and hereby is authorized to sign a contract with O’Connor Davies Munns & Dobbins, LLP to perform accounting services in the amount of $18,000.

ADJOURNMENT

On motion by Mr. Duffy, seconded by Mr. DeLucia the Board voted 5-0 to adjourn at 11:30 p.m.

Kathleen G. Cory
Town Clerk