

Town of Lowville
Regular Town Board Meeting
October 19, 2023

A regular meeting of the Town Board of the Town of Lowville, County of Lewis and the State of New York was held at the Town Hall, 5533 Bostwick Street, Lowville, NY on the 19th day of October 2023.

Present:

Robert Mullin, Supervisor
Paul Virkler, Deputy Supervisor
John D. Ross, Councilman
Helen Birchenough, Councilwoman
Stephen Farney, Councilman

Others Present:

Raymond Meier, Town Attorney
Thomas Widrick, Highway Superintendent
Aimee Murphy, Town Clerk
Selina Olmstead, Deputy Town Clerk
Nicholas Astafan, Jr., Dog Control Officer

Also Present: Chuck Terrillion, Village of Lowville Trustee; Vincent Nortz, Legislator Candidate; Mickey Dietrich, RACOG; Henry Avallone; Accountant Scott Lawrence entered at 11:15 a.m.

The meeting was called to order at 9:30 a.m. by Supervisor Mullin who also led the pledge of allegiance.

MINUTES

Motion by Councilwoman Birchenough, seconded by Councilman Ross to approve the minutes of the September 21, 2023 regular meeting as submitted by the Town Clerk.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

CORRESPONDENCE

1. Naturally Lewis: Uniform Tax Exemption Policy – Updates; Supervisor Mullin to contact Naturally Lewis for more information.
2. Volunteer Transportation Center: Request for Budget Allocation 2024 – Would like the Town to allocate a contribution of \$3,200 in the 2024 Budget. Councilwoman Birchenough recommending tabling the discussion pending further budget/financial discussions.

VOUCHERS

Motion by Councilman Ross, seconded by Councilman Virkler to approve bills be paid as listed in the following amounts.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

General – Abstract #10	Voucher #343 to #372	\$ 15,995.15
Highway – Abstract #10	Voucher #146 to #161	\$142,008.24
Water/Sewer – Abstract#3	Voucher #25 to #38	\$ 42,343.19
Child Support		\$ 330.12
Trust & Agency		\$ 1,490.48
NYS Comptroller		\$ 2,676.00
	Total	\$204,843.18

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SUPERVISOR'S REPORT

Receipts:	Town Clerk	\$ 2,405.52
	Town Court	\$ 4,016.00
	Zoning	\$ (\$1,350.00 ytd)
	Absolute Auctions	\$ 46,000.00 (Sale of 2021 F350)

Supervisor Mullin's financial and activities reports are included in the Board Members' packets.

Brookside Sewer: Supervisor Mullin reported the estimated cost of the project as presented by BC&A to be \$160,000. Supervisor Mullin contacted Community Bank to see what the Town may be able to borrow, and is waiting for a response.

County Update: Supervisor Mullin read a brief update from Josh Leviker, Lewis County Legislator on the happenings of the County.

Financial Report: Accountant Lawrence provided the Supervisor's monthly financial report. The Board reviewed the report and discussed the budget adjustments/transfers that are needed to cover accounts that are overspent.

Motion by Councilman Ross, seconded by Councilwoman Birchenough to adopt **Resolution #39-2023, "Approve Budget Adjustments and Transfers"**.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

RESOLVED the following Budget Adjustment and Transfers are approved as listed.

**TOWN OF LOWVILLE
BUDGET ADJUSTMENTS**

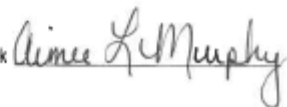
FUND: General Fund

Account	Code	Increase	<i>Decrease</i> Increase
Municipal Bldg - Contractual	1620.42	9,723.63	
ARPA Revenue	4089		9,723.63

Approved by 
Supervisor

Approved by Town Board on: 10/19/23

Date: 10/19/23

Town Clerk 

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**TOWN OF LOWVILLE
 BUDGET TRANSFERS**

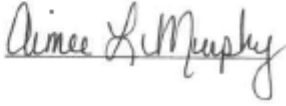
FUND: Water Fund #1 CWD

Account	Code	Increase	Decrease
Transmission & Dist - Contractual	8340.4	3,220.18	
Appropriated Fund Balance	599		3,220.18

Approved by 
 Supervisor

Approved by Town Board on: 10/19/23

Date: 10/19/23

Town Clerk 

**TOWN OF LOWVILLE
 BUDGET TRANSFERS**


FUND: Water Fund #3 E State St

Account	Code	Increase	Decrease
Transmission & Dist - Contractual	8340.4	547.30	
Appropriated Fund Balance	599		547.30

Approved by 
 Supervisor

Approved by Town Board on: 10/19/23


Date: 10/19/23

Town Clerk 

**TOWN OF LOWVILLE
 BUDGET TRANSFERS**

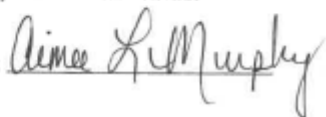
FUND: Sewer Fund #1 Brookside

Account	Code	Increase	Decrease
Transmission & Dist - Contractual	8120.4	122.99	
Appropriated Fund Balance	599		122.99

Approved by 
 Supervisor

Approved by Town Board on: 10/19/23

Date: 10/19/23

Town Clerk 

Motion by Councilwoman Birchenough, seconded by Councilman Virkler to accept the Supervisor's receipts, activities and financial reports.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler

NAYS – 0

DEPARTMENT REPORTS

DOG CONTROL

1. The Dog Control Officer's (DCO) monthly report is included in the Board Members' packets.
2. Working on the expired rabies vaccination lists.
3. Reviewed new state mandates for shelters in New York. The Lewis County Humane Society may need to ask local municipalities for financial assistance to help cover the cost of mandated updates. If this happens, DCO Astafan would like to see the contract with the Humane Society be re-negotiated at that time.

RACOG

Mickey Dietrich gave a brief update on the happenings of RACOG and the Tug Hill Commission.

1. The next RACOG Board meeting will be 01/24/2023.
2. Looking for Project Specialists and an Associate Circuit Rider.
3. The CDL training presentation went well.
4. Still working on a Wastewater Operator License program.
5. Town of Watson is interested in joining RACOG.

ATTORNEY

1. Brookside PILOT: nothing new to report. Clerk Murphy asked if the Board was interested in increasing the PILOT payment as per Section C of the PILOT Amendment. After a brief discussion, a resolution was passed approving the increase. Resolution to follow.
2. Recreation Commission Dissolution: The Village of Lowville attorney researched the Village records and codes and found a commission was never formally created by ordinance/local law as required. As a result, it was suggested both boards pass a resolution formally dissolving the recreation commission. Attorney Meier agreed with the Village attorney and suggested the Boards may wish to enter into an intermunicipal agreement (IMA) for a Recreation Board/Committee. Attorney Meier will meet with the Village attorney and draft an IMA for the next Town Board meeting.

MOTION By Councilman Ross, seconded by Councilman Virkler to adopt **Resolution No. 40-2023, "Approving Increase in Brookside PILOT"**.

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, the Town of Lowville has a Payment In Lieu of Taxes Agreement (PILOT) with Brookside Redevelopment Company, Inc. and

WHEREAS, the Agreement states that the Town may increase the value of the PILOT by a multiplier (equity cost) that allows three quarters of one percent (.75%) on "Duplex Units", then therefore be it

RESOLVED, that the Town Board of the Town of Lowville shall notify Brookside Senior Living Community that it will exercise the provisions agreed to in the PILOT.

Motion by Councilman Ross, seconded by Councilman Farney to adopt **Resolution No. 41-2023, "Dissolving the Joint Recreation Commission of the Town and Village of Lowville"**.

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, the Town of Lowville and the Village of Lowville heretofore attempted to establish a Joint Recreation Commission for the purpose of cooperatively providing recreational activities within the Town and Village; and

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WHEREAS, it appears that the establishment of a Joint Recreation Commission between the Town and Village is governed by Section 244-d of the General Municipal Law, which requires that each municipality wishing to establish such a Joint Commission must do so by the adoption of an ordinance passed within ninety (90) days after an informal agreement is reached and that failure to do so results in such Joint Commission becoming null and void and without formal legal status; and

WHEREAS, neither the Town nor the Village adopted such an ordinance in accordance with the terms of Section 244-d of the General Municipal Law, thus rendering the informally established Joint Recreation Commission null, void and without legal existence; and

WHEREAS, the Office of the New York State Comptroller has recommended that the Town and Village each, to the extent it has informal existence be dissolved and declared to be without legal existence; now therefore be it

RESOLVED that the Joint Recreation Commission is declared to be without formal legal existence and is hereby dissolved; and be it further

RESOLVED that the Town and Village will discuss the possibility of offering recreation programs on a cooperative basis and to consider an intermunicipal agreement or such other arrangements as may lawfully be used to offer such programs; and be it further

RESOLVED that copies of this resolution shall be sent to the Village of Lowville and the Office of the New York State Comptroller.

TOWN CLERK

1. The Clerk's Monthly Report was passed for review.
2. Hunting licenses continue to be sold daily but are slowing.
3. Preparing to send unpaid water bills to Lewis County for relevy onto the January 2024 tax bills.
4. Remote water readings have been downloaded and reviewed. With assistance of highway department, owners of "higher-than-normal" readings have been contacted. Preparing for water billing November 1st.
5. Deputy Town Clerk Olmstead attended a cyber-security webinar.
6. Clerk Murphy and Deputy Clerk Olmstead searched old minutes for the creation of the recreation commission.

ZONING/PLANNING

Peter Cecconi has provided a letter of interest to serve on the Zoning Board of Appeals. If appointed, this will fill the unexpired term left from the resignation of Eric Quina.

Motion by Councilman Virkler, seconded by Councilman Farney to adopt **Resolution No. 42-2023, "Appointment of Zoning Board of Appeals Member"**.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

RESOLVED, that Peter Cecconi is hereby appointed as a member of the Zoning Board of Appeals for the term of 10/19/23 to 12/31/24.

Clerk Murphy reported receiving a letter of resignation of Suzanne Peters from the Town and Village joint Planning Board effective 10/10/23.

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Vacancies on the Planning Board: two (2) full members. ZBA: one (1) full member; one (1) Village alternate member.

SUPERINTENDENT OF HIGHWAYS/SPECIAL DISTRICTS

1. Hydrants in all water districts have been flushed, except for water district #5. When paving of the Wal-Mart parking lot is complete the hydrant will be flushed in that district.
2. Water meters have been read.
3. Put shoulders on .6 of a mile on the Griffith Road from the Delles Road.
4. A new automated external defibrillator (AED) has been ordered for the municipal building. Brian Hanno, Purchasing Director at Lewis County obtained multiple quotes to choose from. Superintendent Widrick ordered the same model as is being used by County Emergency Management and the Village Police Department.
5. BridgeNY: Architectural/Engineering Consultant Agreements need to be signed for both the Gardner Road and O'Brien Road projects. Resolution to follow.
6. Seasonal Worker: Only one (1) application has been picked up, and none returned as of this meeting. Application period is listed as open until 11/10/23. Superintendent Widrick inquired if the Board would be interested in increasing the hourly rate to \$17/hour. Resolution to follow.
7. Superintendent Widrick spoke with the representative from Utica Mack. The new truck was scheduled to go into production in January of 2024. The recent union strike involving the Mack manufacturing employees will postpone production for as long as the strike is ongoing. The Town will not "lose its place in line" due to the strike.

Motion by Councilman Farney, seconded by Councilman Virkler to adopt **Resolution No. 43-2023, "Supervisor to Sign BridgeNY Architectural/Engineering Consultant Agreements"**.

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, in connection with a federal-aid project funded through the New York State Department of Transportation (NYSDOT) the Town of Lowville has sought to engage the services of a Consultant Engineer for the Gardner Road over Tributary to Mill Creek Culvert Replacement project and the O'Brien Road over Mill Creek Culvert Replacement project; and

WHEREAS, in accordance with required consultant selection procedures, including applicable requirement of NYSDOT and/or the Federal Highway Administration (FHWA) the Town of Lowville selected the Consultant to perform such services; now therefore be it

RESOLVED, Supervisor Mullin is authorized to enter into the "Architectural/Engineering Consultant Agreement, Supplemental Agreement No.1" for both the Gardner Road Culvert Replacement and the O'Brien Road Culvert Replacement projects.

Motion by Councilman Ross, seconded by Councilman Farney to adopt **Resolution No. 44-2023, "Setting Hourly Rate of Pay for Seasonal Highway Employee."**

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

RESOLVED, that the rate of pay for the seasonal highway employee be set at \$17.00/hour.

JUSTICE

The New York State Magistrates Association (NYSMA) has requested the Town pass a resolution in opposition to a bill, if passed, would require all Judges presiding in the 100 largest Town and Village

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Courts to be licensed to practice law in the State and to have been admitted to the NYS BAR for at least five years. After a brief discussion, the following resolution was adopted.

Motion by Councilman Farney, seconded by Councilman Virkler to adopt **Resolution No. 45-2023, “Opposing New York State Senate Bill S-00139B and Assembly Bill A-1358B”**.

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, New York Senate Bill number S-00139B has been passed which, if adopted by the NYS Assembly (A 1358-B) and signed by the Governor, would require all Judges presiding in the 100 largest Town and Village Courts to be licensed to practice law in the State and to have been admitted to the NYS Bar for at least five years; and

WHEREAS, The Town and Village Courts in Lewis County are among the nearly 1,200 Justice Courts in the State of New York that collectively handle close to 1 million cases each year; and

WHEREAS, The Town and Village Courts are known as the “Courts Closest to the People” and have broad jurisdiction, presiding over civil and criminal matters, thereby performing a vital role in the New York State Unified Court System; and

WHEREAS, The Town Court of Lowville is a vital service to our residents and the Lewis County community as a whole; and

WHEREAS, The Justices in Lewis County’s Town and Village Courts have pledged to be ever mindful of their neutrality and impartiality, and render equal justice to all, while continually adhering to judicial rules of ethics and pronouncements of the New York State Commission on Judicial Conduct; and

WHEREAS, The Justices are required to be on-call 24 hours a day, 365 days a year to review/sign arrest and search warrants, perform arraignments, and issue orders of protection; and

WHEREAS, The Justices of Town and Village Courts ensure that the rights afforded to defendants by the Constitutions of the United States and the State of New York are provided and protected; and

WHEREAS, The Justices of Town and Village Courts preside over trials involving misdemeanor and violation level offenses, thereby ensuring that the victims of those offenses can be heard; and

WHEREAS, The Town and Village Courts provide a venue for Citizens to pursue a low-cost and efficient procedure for individuals to resolve civil disputes and landlord/tenant matters; and

WHEREAS, the Justices also preside nightly and on weekends and holidays, ensuring that arrested citizens are promptly afforded legal representation, the opportunity to plead to alleged charges, and to be considered for release, bail, or incarceration; and

WHEREAS, The Justices continually strive to improve the administration of justice through participation in mandatory education programs, seminars, meetings of the Lewis County Magistrates and Clerks Association and the New York State Magistrates Association; and

WHEREAS, The New York State Office of Court Administration must certify all as having successfully completed mandatory training both following election and in each subsequent year; and

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WHEREAS, The New York State’s Commission on Judicial Conduct’s most recent annual report (2023) identifies that only 13% of the complaints filed against the judiciary were against Town and Village judges while the remaining complaints were against either “State-paid” judges, (constituting approximately 40% of the judiciary) who accounted for approximately 67% of the complaints received, or against non-judicial entities (20%); and

WHEREAS, This Bill attempts to usurp the right of voters to elect those in their communities that they believe to be fair and impartial, and who would best serve that community, whether they be attorneys or non-attorneys; and

WHEREAS, This Bill implicitly suggests that members of a community are incapable of making informed decisions about who should sit in judgment of matters from the straight-forward to the highly complex as may arise in their local courts; and

WHEREAS, this legislative body views the intention of this Bill is not to actually improve the courts, but a blatant and unconscionable attempt by the New York State Bar Association, an organization that represents approximately only fifteen percent (15%) of the State’s attorneys, to generate increased opportunities for its members, and to dictate who voters may choose to serve in our local governments; now therefore, be it

RESOLVED, That the Governing board of the Town of Lowville strongly, and in unequivocal terms, calls on both the leadership in the Senate and Assembly, and the Governor to reject this poorly conceived and hastily fashioned seizure of voters’ rights to determine, for themselves, who they would choose to sit as their judges as has been the case for almost two hundred years.

OLD BUSINESS

Brookside Sewer: Previously addressed; Supervisor Mullin and Superintendent Widrick met with representatives of the Brookside Board to discuss cost of the project and how to fund it.

LACS Building Project: Nothing

Water Line Extension: Casandra Buell, Director of Planning at Lewis County sent out a Request for Proposal (RFP) for engineering services.

Quarry – Blasting: Nothing new; request made to remove this from the agenda.

Water & Sewer Rates for 2024: The updated rate chart was provided to the Board Members.

Motion by Councilman Farney, seconded by Councilman Ross to adopt **Resolution No. 46-2023, “Adopting Water & Sewer Rates”**.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

RESOLVED, the water and sewer rate chart be accepted as presented by the Water Clerk, with rates effective for the 5/1/2024 billing.

A copy of the rate chart incorporated at the end of these minutes

Benefit Assessment Rolls

Supervisor Mullin declared the Public Hearing on the Consolidated Water District #1 (CWD#1) Benefit Assessment Rolls open at 11:00 a.m. with proof of publication provided by Town Clerk Murphy being acknowledged. Town Clerk Murphy recommended increasing parcel ID number

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195.00-02-15.200 owned by Maple Run homes from primary units: 0 to primary units: 2 as a new home has been constructed and a meter installed with the water being turn on.

With no public comment being heard, Supervisor Mullin closed the public hearing on CWD#1 Benefit Assessment Rolls closed at 11:04 a.m.

Motion by Councilwoman Birchenough, seconded by Councilman Ross to adopt **Resolution No. 47-2023, “Change to CWD#1 Benefit Assessment Rolls”.**

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, the Town Board of the Town of Lowville wishes to make a change to the CWD#1 Benefit Assessment Roll due to a newly constructed home in the district; now be it

RESOLVED, the Benefit Assessment Rolls for CWD#1 be amended to include parcel ID number 195.00-02-15.200 owned by Maple Run Homes with a primary unit of 2.

Motion by Councilman Virkler, seconded by Councilwoman Birchenough to adopt **Resolution No. 48-2023, “Adoption of Benefit Assessment Rolls for CWD#1 for 2024.”**

ADOPTED - AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

WHEREAS, the Town Board held a public hearing on the Benefit Assessments Roll for Consolidated Water District #1 on October 19, 2023 where no public comment was heard, and

WHEREAS, the Town Board deems that it is in the public interest to adopt the Benefit Assessments Roll; then, therefore be it

RESOLVED, that the benefit assessments be levied upon lots and parcels of lands listed in the assessment rolls at the time and in the manner provided by law for the levy of State, County and Town taxes.

Preliminary Budget

Supervisor Mullin declare the public hearing on the 2024 Preliminary Budget open at 11:05 a.m. with proof of publication by Town Clerk Murphy being acknowledged. Supervisor Mullin left the public hearing open for potential public comment.

NEW BUSINESS

Reed Cemetery: East Road near Phinney Rd. intersection. A concerned resident has contacted the Highway Superintendent and multiple Board members with concerns about the Town maintaining (mowing) this cemetery since it was never deeded to the Town. Attorney Meier stated if a public cemetery is “abandoned” the Town must assume maintenance of said cemetery. Supervisor Widrick stated, that the highway department has mowed this cemetery since before 1988. Attorney Meier suggested continued maintenance. Councilwoman Birchenough suggested researching the deed. Supervisor Mullin will ask Town Historian Beagle to research this.

Water & Sewer Budget 2024: The revised water and sewer budgets for 2024 were provided to the Board. After review and discussion, the following resolution was passed.

Motion by Councilman Ross, seconded by Councilman Farney to adopt **Resolution No. 49-2023 “Setting the Public Hearing for Water and Sewer Budgets for 2024.”**

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

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WHEREAS, it is necessary to hold a public hearing for Water and Sewer Budgets for 2024, and

WHEREAS, it is necessary for the public hearings to be advertised for at least five (5) days before the public hearing is held, then, therefore be it

RESOLVED, that the public hearing be held on November 16, 2023. at the Regular Town Board meeting at 10:00 a.m.

EXECUTIVE SESSION

Motion by Councilman Virkler, seconded by Councilman Farney to move into executive session at 11:15 p.m. to discuss collective bargaining and potential litigation.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

Motion by Councilwoman Birchenough, seconded by Councilman Farney to leave executive session and return to regular session at 12:30 p.m.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

Preliminary Budget cont'd.

With no public comment being heard, the following motion was presented.

Motion by Councilman Virkler, seconded by Councilman Farney to close the public hearing on the preliminary budget @ 12:35 p.m.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

Motion by Councilwoman Birchenough, seconded by Councilman Virkler to adopt **Resolution No. 50-2023, “Approving changes to the Preliminary Budget 2024”**.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

RESOLVED line DA5140.4 Brush & Weeds Contractual be increased from \$11,000 to \$11,750 in the 2024 Preliminary Budget.

The next regularly scheduled Town Board meeting will be November 16, 2023, at 9:30 a.m.

With no further business the following motion was presented.

Motion by Councilman Farney, seconded by Councilman Virkler to adjourn the meeting at 12:52 p.m.

ADOPTED – AYES – Birchenough, Farney, Mullin, Ross, Virkler NAYS – 0

Respectfully submitted,

Aimee L. Murphy, RMC
Town Clerk