

Town Board Meeting

July 22, 2013

6 p.m.

Present: Supervisor S. Reiter; Council Members A. Bax, M. Marra & E. Palmer; Deputy Sup. G. Catlin; Town Attorney M. Davis & M. Dowd; Bldg. Insp. T. Masters; Adm./Op. J. Ritter; Eng. R. Smith; Highway Supt. D. Janese; Fin. Officer M. Johnson, Police Chief C. Salada & Town Clerk C. Brandon.

Absent: Councilman R. Winkley

Also present: 18 residents & 2 press.

Supervisor opened the meeting at 6 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS:

Roxanne Frederick 530 Riverwalk Drive asked what is happening with the drainage issue.

Reiter: We are going to have a discussion after the meeting with the engineer and the press.

AGENDA:

Palmer: Please add an executive session for police personnel.

Reiter: An executive session for WPCC personnel and budget transfers.

Marra MOVED for approval of the Amended Agenda. Seconded by Palmer and carried 4-0.

MINUTES:

Mara MOVED for approval of the minutes of 6/24/13 Spec. Mtg. w/Tuscarora Nation and 6/24/13 RTBM. Seconded by Bax and carried 4-0.

ABSTRACT:

Palmer MOVED the Regular Abstract of Claims #'s 2121 to 2527 and recommend payment in the amount of \$961,886.16 plus a Post Audit of \$115,589.74. Seconded by Bax and carried 4-0.

Palmer MOVED additional Post Audit payments: Home Depot \$2,083.75; Sam's Club \$1,478.50; Key Bank 1,239.41; Radio Shack \$90.48; United State Treasury \$81.00; Leaf \$751.86; Mountain Glacier \$35.17 and Network Services \$382.20. Seconded by Bax and carried 4-0.

OLD BUSINESS:

1. Radio Tower: Nothing at this time.

2. Senior Center Roof/AC Estimates:

Smith: You have a report for review with assessments and recommendations for the roof, AC and the lighting which have exceeded their life expectancy. Budgetary items are included. Included are NYSERTA incentives rebates. What his your pleasure.

Reiter: I think the Board has to sit down and discuss all of the options first. Do we want to repair the roof or replace it with a peak roof? Mr. Maples of NYSERTA has put together a grant package. I will ask the clerk what is the status on the sealing and stripping project of the parking lot.

Brandon: We have received one bid for both the Senior Center and the Town Hall parking lots. I have contacted 3 business all in Niagara County and asked for s site inspection and to submit proposals.

3. Drainage: 5376 Annover Road & 916 Upper Mt. Road.

Bax: Under my agenda, we have had a number of residents contact the town who are filling out the drainage work form. We have had people go out and look at them and I

think that we have come to a crossroads. The next decision to be made is a determination as to whether the drainage work to be preformed benefits just a single homeowner or several homes on a particular road and thus more of a Town requirement. If it only benefits the one home it is going to be the homeowner's responsibility. What I was going to propose to the Town Board tonight is possibly speaking with Mr. Masters, Mr. Janese and the Drainage Dept. effectively trying to put together a protocol as to making a list of these residents that require us to look into it. Then bringing it to the Town Board and maybe having a once a month meeting where maybe we could actually tour the actual drainage if we have all of the information in front of us. Then we could make a determination and then move forward with a remedy. Today, we have 2 on our list and 2 more that came in and maybe we could address them together after the meeting and come up with a date that works for all of us and come up with a solution.

Reiter: Would you feel comfortable if I would ask the Town Clerk to send a note to all of these folks so that they should expect a visit from the Highway Supt. I see that there are some tree trimming issues in the green space. One being the Miller family.

Palmer: I did talk with Mr. Miller today.

Reiter: I would like to request that the Highway Supt. to go out. In the past the Highway Dept. or the Drainage Dept. has done that and have them pay a visit and come back. Then have the Highway Supt. write the issue up for the Town Board to review both considering the drainage issues and other. The green spaces is Town property and presently we can't seem to divest ourselves of that property but it is owned by the Town. I think it would be appropriate if the Highway Supt. look at it and come back on whether it can be done or if we have to hire an outside person to do it so we can determine how to go about taking care of this situation.

Brandon: Would you like me to provide a list and send them a letter to them letting them know our plans.

Janese stated that he has the names and wants the Board to be aware that some of these have been here for a long time.

Palmer: Mr. Miller did explain his problem to me AND he just wants some type of resolution to the problem.

Janese said he would give something to the Board for the next meeting.

Bax said he would meet with Mr. Janese and co-ordinate something.

NEW BUSINESS:

1. A letter from Mr. & Mrs. Nicholas George is a drainage issue and will be referred.
2. A letter from Samuel Morreale thanking Mr. Janese and the Highway Dept. for their assistance with a tree.
3. A letter from the Town Clerk asking for a budget transfer from A1990.0400 to A1450.100 (Election Personnel) in the amount of \$2000.00 to cover the cost of election inspectors for the recent referendum vote.

Palmer MOVED for the transfer of \$2000.00 from A1990.0400 to A1450.100. Seconded by Marra and carried 4-0.

REITER:

Legal:

Dowd: We have several on going things that should be discussed in executive session. I would like to address Legacy Drive and a recent application for a zoning variance that could end up in litigation. There are some drainage issues.

We completed the bonds for the consolidation of the Town's loans for 5 million and also the green space issue.

Reiter: I understand that our bond rating was very good so the highway paving and the treatment plant updates...

Dowd:

The rating was Aa3 which is quite a good rate.

ENGINEERING:

Smith: On the backup generators installation at the Police Station the work is 95% completed. I would like to coordinate with the Mr. Janese for the landscape restoration.

FINANCE:

Johnson: The Lime Energy Audit for the police station which would cost us \$623.01 for an annual savings of \$1049.22 per year. We already did the highway garage and the senior center and they will get a quote for town hall.

Marra MOVED for approval of the Lime Energy expenses. Seconded by Bax and carried 4-0.

Johnson: I need a transfer from H97.0200, \$20,000 to H55.0200 to take care of the parking lots, remodeling here at Town Hall and lighting transfer for the parking lot.

Marra MOVED to transfer \$20,000 from H97.0200 to H55.0200. Seconded by Palmer and carried 4-0.

ASSESSOR'S APPOINTMENT:

Reiter: We have a letter from Assessor Linda Johnson that the 6 year term expires on 9/30/13. She is asking that the Town Board reappoint her. She has done a great job for us.

Bax MOVED for the reappointment of Linda Johnson as Sole Assessor for a term to begin on 10/1/13 to 9/30/19. Seconded by Palmer and carried 4-0.

Reiter: I would request an executive session to discuss personnel at the WPCC.

PALMER:

I would like to extend to Sup. Reiter our wishes for a full recovery.

Reiter: I would like to thank the staff at Buffalo General for the excellent care I received there. Also, thank you to the staff, employees and residents for their best wishes.

Planning Board Directives:

5894 Ward Road/Special Use Permit:

1. The Planning Board met on 6/20/13 to review a request from John Martino Jr. 5894 Ward Rd. for a special use permit to allow outside seating on the south side of the Marlboro Inn. The Planning Board recommends approval of the Site Plan as presented as required to comply with the Fire Inspector.

Palmer MOVED to hold a Public Hearing on 8/26/13 at 5:45 p.m. for a Special Use Permit. Seconded by Marra and carried 4-0.

The Clerk will notify the residents.

2. The Planning Board reviewed a site plan review for 5846 Buffalo LLC, Christine Miller for apartments and commercial space. SEQR was completed and a Neg Dec has been issued. The Planning Board recommends approval of the plan with the following:

- a. A signed release is required between the Town and the Miller's accepting responsibility for the 10 parking spots and loading zone located in the Town right-of-way.
- b. The Town will still have access to the right-of-way for any required repairs.
- c. All the engineering be satisfied with the Town Engineer.

Palmer MOVED to accept the Nec Dec for the property at 5846 Buffalo Street. Seconded by Marra and carried 4-0.

Palmer MOVED to accept the recommendation of the Planning Board with stipulations as stated. Seconded by Marra and carried 4-0.

3. The Planning Board reviewed a site plan review for 2 parking lots at Niagara University, Meade Hall and Castellani Green. The Planning Board recommends

approval of the site plan for the parking lots with the contingency that the Town Engineer is satisfied and that the Fire Inspectors signs off on the fire lane width.

Palmer MOVED for approval of the recommendation of the Planning Board for 2 parking lots at Niagara University with the contingency as stated. Seconded by Bax and carried 4-0.

4. The Planning Board met on July 18, 2013 with regards to the Bridgewater Estates LLC project, 1441 & 1451 Ridge Road and they recommended that the Town Board accept the Neg Dec for environmental compliance. The project has the approval of the N.C. Planning Board. The Town Engineer complies with all engineering & zoning ordinances. They recommend approval of the site plan.

Palmer MOVED to accept the Neg Dec for the Bridgewater Estates project. Seconded by Bax. Carried 3-0-1 (Reiter abstained).

Palmer MOVED to accept the recommendation of the Planning Board for approval of the project. Seconded by Marra and carried 3-0-1 (Reiter abstained.)

BAX:

1. WPCC

Ritter: Our plant electrical upgrades are 88% complete to be finished by the end of August. Standby generator was successfully tested on Old Lewiston Rd. We have a new generator being placed at Joe Davis Pump Station and Creek Rd. this week.

On Friday the 19th, the Town and Village were hit with a power outage that lasted for some time and we developed some problems at the plant. I would like to thank Scott Hillman from the Town of Porter, Doug Janese, the Lewiston Water Dept. and Village of Lewiston for their help. The water was not too bad. It was the power outage. One of the problems we had was the phone lines went down and we are a non 911 call center for all three municipalities. Nobody could call us. Verizon could not help us as far as getting all of the calls transferred to me so we had a lot of people circulating the pump stations, houses etc. We lost power at 10 p.m.

Reiter: You obviously did a great job but National Grid did a phenomenal job with over 20,000 people out and they had over 50 crews with 30 of them here. By 6 p.m. most of the power was restored on Saturday.

Janese: The crews are still out there now picking up branches.

2. Drainage Issues:

We will take care of that afterwards. The individuals who have written letters will be put in with our analysis as to what the protocol will be for a Town project.

3. Morgan Farms:

We have a letter from Mr. Shaw of 4673 West Park Drive looking for a stop sign at Morgan Drive & West Park intersection.

Janese: I have looked at it and I told him I don't have the independent authority. I would like input and approval from the Board.

Bax MOVED to authorize Highway Supt. D. Janese to install the appropriate sign at the intersection. Seconded by Marra and carried 5-0.

4. Greenspace/Trees.

If these are safety issues, we have to move on it.

Janese: They are large trees that have been there for over a year and it a matter of going out there with the proper equipment. They are overgrown now. We don't have small equipment that we can drive through their yards. If we could go out and show you....

Bax asked if our equipment would do damage to the yards?

Janese: If we use some of the things that we have right now, yes.

Palmer: The Town liability is always a factor.

Bax: How many trees?

Janese: 6 or 7 that I think are urgent. You can begin to maintain them a little bit of the time or you can wait until they become an urgency. I think we should go through there and make a list.

Bax said maybe we could compile a list along with the drainage issues. Let's put it under Old Business.

MARRA:

1. Fees for Use of Town Parks:

I have talked with Mr. Dashineau and he isn't concerned. There was an issue at Kiwanis Park this weekend. We have talked about possibly having our Parks & Recreation Committee give us some input and possibly a new policy for next year.

HIGHWAY ISSUES:

Janese: Mr. Catlin & Mr. Bax came to the garage regarding the equipment. Our leaf machines are both 14 years old. Our chipper is 20 years old which broke down on Friday. With these smaller pieces of equipment I think we are being shortsighted not to look into purchasing now. We have that grant available to us with 50% on a dollar. These things are not unnecessary. We use the chipper the most. It saves a ton of time and labor. They are available under the grant. I also want to start thinking about a replacement program. If we buy for example buy a leaf machine this year and then in 5-6 years buy another one. We would be in a program of not being where we are today. We have to start thinking forward. We need a regular replacement program. I would like the Board to take a look at those and again if we were borrowing the money of which I am not a fan of borrowing money. You have the opportunity to save 50cents on a dollar by buying things you absolutely need as opposed to waiting.

Reiter: How you are going to save?

Janese: On the recycling grant. If you recall we had Mr. Rotella put in a grant for us?

Reiter: Let's have Mr. Rotella push this forward. I haven't seen anything about this.

Janese said they have already been put through.

Catlin confirmed that this was put through several months ago.

Bax asked if Mr. Janese was looking at specific models.

Janese said we should stick with the same model and manufacture on the leaf machine with the same parts. Please consider this.

Reiter: We have \$50,000 in the equipment line. Why don't you order a leaf machine? Why are we sitting on it?

Catlin: Why don't we put the list together and confirm with Mr. Rotella and when the application money may be coming back to us, so we have an idea.

Palmer said he likes the replacement plan.

Riverwalk Drainage:

Janese: At Riverwalk, with the drainage issue, we have the Teamster Union that has the exclusive right to this work that is being done on town property. We have the staff and equipment in place there to do it ourselves. I don't believe that we need to spend money on engineering. Why don't you let us take a look at this. Why don't you let the Drainage Dept. take care of it in the interim and see if we can come up with some solution.

Reiter: I think there are some neighborhoods with different subdivisions in planning that will solve the problem without....you know the problems we are having with pump stations in the muck lands and I am a firm believer if we can do it without mechanical it is one less thing to break down. When they break down it becomes an

issue as to where are we going to find the money to pay for it. Who is going to pay for the electricity? There are some issues and I think that this is an engineering problem that both the Town has to accept some responsibility for because of what they allowed to happen. The developer has to accept some responsibility because his engineer I think designed it poorly and I think this isn't a simple solution of going out and using a transient and saying the water will run here or there. State property maybe involved although we may have ruled that out because of the amount of fill that would be needed which if we were to add fill and dig these ponds much deeper then you have a hazard. The other issue is if you add fill all the water south that should run north does not "jump". These are some issues that are going to taken more and I think in this situation that we get our engineers involved to oversee what might have been mistaken early. That is where we are at.

Janese: I would like the Board to give me thirty days to look into this and see if we can provide a solution without the engineering costs etc. I don't see what our rush is after waiting 10 years. Simply give the Drainage Dept.

Reiter: The rush is the people are that these people have been waiting a long time and if you would like to work with the engineer you are welcome.

Janese: I would rather save the money on the engineering. I said thirty days and I don't think it is too much to ask of the Board not after waiting 10 years. Anybody have an objection to 30 days?

Catlin: Has the engineer done some preliminary work on this. Is he willing to tell us what he has done so we can evaluate as to where we are?

Smith: We have investigated several alternatives for installing a drainage relief system there. We have had a survey out there to shoot some elevations that would help in the design. We are in the design process right now. We are hoping to finish it up in the next couple of weeks. We are probably 75% complete on ...given the residents that hopefully solves their drainage problems. As to alternatives, we looked into utilizing the drainage pipe at Joe Davis Park but at this point it is not feasible because we have capacity issues and the State would not approve of us utilizing the pipe. We have also tried to bring it towards the treatment plant. I have had discussions with Mr. Ritter about this and based on those discussions it does not seem feasible to bring it down towards the plant either. The alternative that seems most appropriate is to bring it across Lower River Road. There is a drainage easement owned by Niagara County that has a significant drop towards the river and we can try to utilize that system for discharge. It would be in that flat and it would be best to try and go out to the river. But we would have to go through some vacant property.

Palmer: What kind of timeline would we be looking for if we take that option?

Smith: That is the option that we have chosen at this point.

Palmer: I am talking about relief for the residents?

Smith: I hope to get a plan done in the next couple of weeks and it is up to the Board how you want to proceed with it.

Palmer: If we want to use that Niagara County line, how much approval and red tape do we have to go through?

Smith: I have already gotten approval from Niagara County on that.

Reiter: Construction wise. Say in 2 weeks, you had the opportunity to complete a plan.....

Smith: Let's say by the end of August just so we can give it to the Town for review and see what they think.

Reiter: That will give us till the August 26 board meeting and you could have a plan together.

Smith: Absolutely.

Reiter: Then we could then turn it over to the Town Highway Dept. and the concerns with the union if they see so fit. Although we put drainage out for bid and as long as it fits in Mr. Janese's schedule we could start by the end of August or the first of September. I like to be a little more conservative about how long things take so by September 1 we could have a plan to straighten out that project.

Smith: Sure.

Reiter: That would not affect the new developments in that subdivision and basically take care of the homes and the areas behind the treatment plant property or to the north of the treatment plant property and remove the water from that area.

Resident: Assuming that is true, how long would it take? Say we start on 9/1, would it take a month or two months after that. Can you give us a ball park figure?

Smith: Normal construction practice would be to cut a couple of hundred of pipe a day and you are probably looking at over 2000 feet of pipe.

Reiter: That is about 2-3 weeks.

Palmer asked if the vacant property is a problem.

Smith: We would have to get the blessing from the one landowner.

Dowd: I think we would have to encroach on some of the homes in the back yards and we would have to get temporary easements.

Reiter: We can get the temporary construction easements with the homeowners immediately, so there would not be a delay. We are talking in the backyard with a 6 or 8 inch pipe.

Smith said probably a 12 inch pipe because it is so flat.

Resident: Will the pipe be on the property?

Reiter: On the back edge of the property. It will not be on the Town of Lewiston property. We will make such a mess and that property is all trees. If you want us to do it you are going to have a mess but it will draw the water from the Town's property but it will also drain because the way your lots are raised and slope down. It would be better to put it on your property and construction would be much easier and quicker and you would be more satisfied. We would restore and rehabilitate your property to the condition it was.

Smith: Easements will be involved.

Reiter: There would probably be 10" easement for maintenance of the pipe after. That's means you could not build a shed on the property. We definitely don't want you to put fences on it.

Resident: Would it be completed this year? Perhaps before winter.

Reiter: We gave you a pretty ambitious schedule. I would like to see it done by the end of September.

Resident: I can't visualize it. Is there something you can send us?

Reiter: When the engineering gets done in a couple of weeks, I will make sure you all get something...

Resident: Not to the HOA. Send it to the residents who live on Riverwalk Drive.

Reiter: Please give a list to the engineer.

Janese: It is satisfactory with me. All I want to do is expedite it.

Marra MOVED to enter into Executive Session to discuss police matters, WPCC and Legacy Drive. Seconded by Bax and carried 4-0.

Time: 6:55 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session*

July 22, 2013

7:00 p.m.

Present: Sup. Reiter; Council Members Bax, Marra & Palmer; Deputy Sup. Catlin; Attorneys Davis & Dowd.

Issues Discussed:

1. Legacy Drive.
2. W.P.C.C. personnel matter.
3. Police personnel-liability issues.

Bax MOVED to exit Executive Session. Seconded by Palmer and carried 4-0.

Town Board reconvened.

Bax MOVED to approve Sup. Reiter to execute a Memorandum of Understanding (MOU) permitting temporary access road to Legacy Drive for emergency vehicles subject to Fire & Building Inspectors approval. Seconded by Palmer and carried 4-0.

Bax MOVED to direct Police Chief Salada to keep personal and police vehicles at Police Station. Seconded by Palmer and carried 4-0.

Bax MOVED for adjournment. Seconded by Palmer and carried 4-0.

Time: 7:55 p.m.

*Minutes taken by M. Marra.