

April 8, 2013

5:30 PM

Public Scoping Session/Joseph Davis State Park Improvements

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Atty. M. Dowd; Atty. M. Davis; Finance Director M. Johnson; 1 Press; 19 Residents and Dep. Clerk C. Schroeder

The Supervisor opened the Public Scoping Session on the Joseph Davis State Park Improvements.

Reiter introduced Robert Lannon, officer with the Engineering firm of Conestoga Rovers & Associates who would make a presentation of the work the Town plans to do. Also in attendance were Mark Thomas and Karen Terbush from the NYS Office of State Parks & Recreation.

Mr. Lannon made a presentation of the work that the Town would like to do. He introduced his colleagues Dave Britton and Greg Keyser who are also very involved with the project.

Mr. Lannon said this is a public informational meeting for the Joseph Davis State Park Master Plan Revision and Capital Improvements. Lannon said he would go thru the purpose of the meeting briefly describing the project followed by the Environmental Review process, aka, SEQR. Following this, the Board will hear public comments. After closing this comment period, he would follow up with a time line summary of the steps to be taken for the process to go forward.

Mr. Lannon said Joseph Davis State Park is bounded by the Lower Niagara River on the west; the Lewiston/Porter border on the north; the Niagara Moses Parkway on the east; and to the south by Fletcher Road.

Joseph Davis State Park is operated by the Town of Lewiston under a long-term cooperative agreement with the NYS Office of Parks, Recreation and Historic Preservation (NYSOPRHP). The terms of that agreement require that any capital improvements made by the Town to the park must be consistent with the Master Plan for the park and the plans must be approved by NYS Parks.

The Town, Lannon said, is proposing several capital projects that are not consistent with that Master Plan that was adopted in 2004. Prior to construction of any project, a Supplemental Environmental Impact Statement (SEIS) must be prepared by the Town and NYS Parks must adopt a revised Master Plan that includes the new revisions.

On the river side area, Lannon said there is an access road off Lower River Road entering into a staging area where boats can be launched into the river and trailers parked. They propose use of porous pavement on the site to control, minimize and retain any run-off from the parking area. There is an adjacent trail along the access road with both ingress and egress back to Lower River Road. They also propose to extend and cover the existing fishing pier along with construction of a fishing station.

In the Central Day Use Area, they propose construction of 60 Recreational Vehicle and 10 Camp Sites, with a 4,800 sq. ft. building containing supporting amenities/facilities within JDSP.

In the Eastern Area, they propose construction of a seven (7) acre pond, wetland habitats and associated paddle trails to connect the two existing ponds.

This is a summary of the over-all proposed projects contemplated for JDSP, Lannon said.

Regarding SEQR, Lannon said the Town of Lewiston on March 25 declared itself Lead Agency. At that time, it declared a Positive Declaration. A Positive Impact Statement will be prepared. It also scheduled a Public Information Meeting. That is where we are

today. The purpose of the Public Scoping is to solicit comments from the public to develop a framework from which they will generate the impact statement. Once the scoping is complete, a Draft Supplemental Impact Statement (DEIS) will be prepared and published, followed by a thorough review and comment period. It is at this point there will be a public hearing on that document. Lannon said this was a schematic of the over-all process that has to be undertaken. Once the public hearing is completed, they will prepare a Final Supplemental Environmental Impact Statement (FSEIS). Each of the agencies will have the ability to issue their own findings. The list of involved and interested agencies is quite extensive. These will be listed in the solicitation of Lead Agency as well as the Draft Scoping Document.

Requirements for scoping fall under the SEQR Law §617.8, Lannon said. These are requirements that must be included in the Scoping Document, i.e., a brief description of the proposed action; identifying any potentially significant adverse impacts identified both in the positive declaration and as a result of consultation with other involved agencies and the public. Thirdly, the extent and quality of information needed to adequately address each impact including identification of relevant existing information and new information that will be followed by initial mitigation measures that may be required and reasonable alternatives to be considered.

Lannon asked for public comments: The Town Clerk, he said, is prepared to transcribe all the comments. Then will then take these comments and incorporate them into the Impact Statement. We encourage public participation. We encourage your input. It is a very public process and we're open to any and all suggestions. He opened the floor for public comments at this time.

PUBLIC STATEMENTS:

Mark Schmitt, 2666 Ridge Road, is here representing Troop 855, Boy Scouts of Lewiston and Brotherhood of the Eagle Scouts. We had the opportunity over the last few years to be involved with some eagle projects at Joe Davis Park. We've opened up trails to the east lakes and found some of the best large mouth fishing in the area. We support this project wholeheartedly. It's a great project.

Paulette Glasgow, 836 The Circle, had a question about the canoe trail and eastern area improvements with regard to construction of a 7-acre pond and the associated canoe trail to connect two existing ponds. How is that going to be done? Are you going to be excavating and if so, are there Federal Wetlands there? What's going to happen to the fill?

Lannon said those are questions they will have to evaluate as part of the Environmental Impact Statement. We suspect there will be a delineation of that area.

Glasgow asked if the boat launch would be impacted by international waters. Lannon said it would have an impact on the Niagara River which is a special waterway designated by the NYS DEC. This will be subject to Army Corps of Engineer permits as well as NYS DEC permits. There would be a joint application permit that would be required for any construction beyond the Park's application. That would be a separate permitting process.

A few years back, Glasgow said a letter was submitted with regards to the campground and construction of a lodge. NYSOPR responded that this did not meet their State Park Master Plan. They were skeptical about the campground, boat launch and lodge. This was not within their Master Plan and they could not get behind it. Has that disposition changed?

Lannon said he is not familiar with the letter. All I can tell you is that these are the proposed projects that are currently in vision. In order for them to proceed, State Parks has to be behind them by amending the Master Plan.

When asked, Lannon said the comment period started April 3 from the date of publication of the Environmental Notice Bulletin. The comment period will be extended until May 3. He would touch on this later.

Ron LaDuca, 400 Oneida Street, said he is excited to see something happening at Joe Davis Park. He played there as a kid and swam in the swimming pool. I've taken my kids there to catch fireflies. I am absolutely 100% behind this. We are all about water. We are all about fish. We are about greenway. Camping is hugely popular and so is the fishing industry. I don't think you're doing enough but this is a good start. I would love to see the development of the ponds and walking trails. I applaud Mr. Thomas for giving us the opportunity to develop this park. It was a jewel at one time. I remember hundreds of people being at this park at one time with the concessions and swimming. It is good, clean recreational fun. I would like to see and adopt a zoo there at some point.

Mark Gallo, 2345 Ridge Road, said he is a Professor at Niagara University in Biology. I use the park for one of my courses - Nature Studies. I like the idea of having a multi-use facility. He asked if they would consider moving the campground to the south of the existing parking lot where the swimming pool once was. This would minimize the impact as there would be no biological impact. There would not be as much impingement on the existing bird facility. You already have something there and you would minimize the amount of construction to this place. You could extend the pond to the east of that. The WPC is to the south of that. There is an issue as to whether effluent from the plant could be used to make an artificial marsh that could then feed into this pond. That would be a nice green initiative to do. I could see a win-win-win with some re-arrangement then what you have proposed. I think it is a great idea to use this park to help to restore it.

Tracy Lloyd, 106 Lake St., Youngstown: I have a couple of questions and want to give my comment on the planning. My first question is regarding the boat launch area specifically. She questioned the parking area. It is a steep area. Is that area at grade with the river or not?

Lannon said the parking lot would remain as is. They would only excavate for the road and launching area.

She asked about the pond that Professor Gallo referred to. Is that proposed pond right now not dabbed set in the middle of the Buffalo Audubon Society's work they are doing for habitat preservation?

Lannon said there are parts of this area that are restricted - the meadowland area. Ms. Lloyd disagreed. If you were there you would see the clearing they started last fall. It is the entire area that is east of the driveway thru the main paying toll booth area. They are currently working on it. The Town is paying for projects right now for habitat restoration. \$195,000 is going into this bird conservation area. They are going to be selectively removing invasive species. It looks like the pond is going to go out and nullify all that work that is being done and is still yet to be completed but has started.

Lannon: We will have to take impacts like that into consideration. We would not want to undo work the Town is currently doing.

Lloyd: A pond would essentially be clearing out what they have already done. It needs to be stopped today because they are already doing work on re-storing the habitat there - the Buffalo Audubon Society. You can't be spending all that money to selectively remove invasive species and then bulldoze that area to make a pond.

Lannon: Point well taken.

Lloyd: My final comment -- I know that one of the speakers (Glasgow) addressed the issue of the NYS Parks position. She is correct in saying that Mark Thomas was in opposition to these new revisions to the 2004 Mater Plan. In addition, I wonder if you can comment on the letters from the DEC and Buffalo Niagara River Keepers from mid-March in opposition to this plan.

Lannon: I would rather not comment on those at this point but those comments will be addressed in the Impact Statement, I can tell you that.

Lloyd: So in general I will close and not take up any more of your time. In the past five years, we've spent millions of dollars making this a conservation area for toads and frogs and birds. We're doing projects right now for a conservation area. I don't think it's in line with creating another place to launch your boat when there are several places between the stretch of Lewiston and Youngstown and Old Fort Niagara. There are plenty of places to launch their boats. I'm in opposition to this type of Environmental Impact.

Paul Jackson, 5775 Griffin St, President of the Niagara River Anglers Association. A few months back, our club was approached by Mr. Lannon and Sup. Reiter as to what we thought about the launch area. I want to thank them for taking our recommendations to heart and making some big changes down there. We feel that this is a necessary addition to the lower Niagara River. That area would make a nice recreation area. A lot of our members would certainly be using it. One question I did want to ask. Where are the restroom facilities going to be located for the launch area?

Reiter said there are existing facilities down below there already. There is a grinder pump system by which we could put in another facility if the traffic warranted that.

Jackson: Our Club is highly in favor of Phase One (Boat launch).

Steve Drabczyk, 4419 Creek Road: I am a local fishing charter captain in the area. I have talked to all our local captains. They seem to all be in favor of this launch. Really, there is only one launch on the Niagara River where we can launch our boats safely from fall to spring. The Fort Niagara water level is way too low to launch our boats. Youngstown Yacht Club is too narrow. So, contrary to what you just heard, we have one launch on the river. We are more than in favor of the project.

Reiter asked if anyone else wished to speak in the scoping session. None did.

In closing, Lannon said that written comments could be submitted until Friday, May 3. They would be hand delivered, mailed or faxed to the Town Clerk's office.

Lannon then addressed the timeline for the items they spoke about earlier. A Final Scoping Document would be distributed within two weeks following the comment period. Following that, a Draft Supplemental Environmental Impact Statement (DSEIS) would be prepared and published in August, followed by a comment period on that document in late August 2013. Following that a Final Supplemental Impact Statement would be prepared in the months of September/October, followed by the Finding and Adoption of the Master Plan in November 2013.

Lannon said all of the documents for the SEQR process will be distributed and made available at the Town Hall, Lewiston Library, Senior Center and the Town's website.

Marra MOVED to close the public scoping session. Seconded by Bax and carried 5-0. 6:15 p.m. Reiter said they would re-convene the Worksession at 6:20 p.m.

**PUBLIC SCOPING
SESSION CLOSED**

Worksession

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Atty. M. Dowd; Atty. M. Davis; Finance Director M. Johnson; Police Chief C. Salada, Bldg. Insp. T. Masters; 1 Press; 19 Residents and Dep. Clerk C. Schroeder

Atty. Dowd led the Pledge of Allegiance.

AGENDA:

Additions:

Marra: Notice for Applicants to Tower Comte.

Reiter: Fund Transfer, Resolution Extending Comment Period, Ex. Session re Contractual Issue (Highway Budget)

Marra MOVED the agenda, as modified. Seconded by Winkley and carried 5-0.

ABSTRACT:

Palmer MOVED for approval of the regular Abstract of Claims #942 to #1281 and recommends payment in the amount of \$1,080,244.33, plus a Post Audit of \$115,092.01. Seconded by Marra and carried 5-0.

ACQUISITION OF LEGACY DRIVE: Atty. Dowd said they are at a point where we have to issue a Determination of Findings. Before we do that, we have to consider if there are any environmental issues. We have a Short Environmental Assessment Form regarding the acquisition of the Legacy Drive property. It complies with the existing zoning as a Residential project. It will not require any permits. There is an already approved roadway. It will have no impacts. It is just the acquisition of the property. It is a Type 1 action and does not require any coordinated review.

TOWN ADOPTS
LEAD AGENCY STATUS
FOR LEGACY DRIVE
ACQUISITION

At this time, Dowd asked the Board to declare itself Lead Agency in the emanate domain proceeding.

Bax MOVED for approval. Seconded by Palmer and carried 5-0.

NEG DEC FOR
LEGACY DRIVE

Secondly, Dowd asked the Board to consider issuing a negative declaration indicating there are no environmental impacts relating to this action.

Bax MOVED for the issuance of a Neg. Dec. on Legacy Drive Acquisition, Seconded by Winkley and carried 5-0.

DETERMINATION/
FINDINGS FOR
ACQUISITION

Thirdly, Dowd asked the Board to consider adoption of a resolution containing the Determination and Findings relative to taking by Eminent Domain property located on Legacy Drive. Dowd said the Determination and Finding has to be made within 90-days of the close of the Public Hearing which was January 28, 2013.

BAX MOVED the following Resolution:

WHEREAS, there is a public use, benefit or purpose to be served by the providing additional access between Northridge Drive and Creek Road in the town of Lewiston; and

WHEREAS, such public use, benefit or purpose would be served by the proposed acquisition of the parcel described below; and

WHEREAS, the New York State Eminent Domain Procedure Law (EDPL) requires that a public hearing be held upon the proposed acquisition of such property; and

WHEREAS, a public hearing was held upon the proposed acquisition of such property on January 28, 2013; and

WHEREAS, all persons in attendance at said hearing were given an opportunity to present oral or written statements and to submit other documents concerning the proposed public project; and

WHEREAS, the New York State Eminent Domain Procedure law (EDPL) requires that the Town Board of the Town of Lewiston makes its Determination and Findings relative to this proposed taking within ninety days of the conclusion of the public hearing; it is

RESOLVED,

1. That the acquisition by the Town of Lewiston of the real property described herein for use as a public road will achieve the following public purposes: to provide road access between two public roads or highways in the Town, to wit, Creek Road and Northridge Drive; to provide

adequate ingress and egress for fire and safety vehicles servicing residences located on Creek Road and Northridge Drive; to access vacant structures located between said Creek Road and Northridge Drives; and to provide for ingress and egress to service such vacant structures thereby eliminating the possibility those structures will become attractive nuisances and to otherwise eliminate blighting influence in the Town.

2. That the Town of Lewiston will benefit by the use of the subject property by providing additional road access to more densely populated residential areas of the Town and providing additional road access to these areas to emergency and fire vehicles. Any private benefit enjoyed by neighboring property owners from this acquisition is determined to be secondary and incidental to the overall benefit to the Town.

3. That the subject property is presently vacant and improved by a road, road drainage facilities and appurtenant utilities and its proposed use is consistent with the present zoning code requirements. The cost of creating any alternate access to the property is outweighed by the availability of the existing improvements located on the property and requires of the least amount of property to the acquired necessary to create the needed road access between Northridge Drive and Creek Road.

4. That there will be no significant adverse effect from the aforesaid land acquisition, and the contemplated improvements, to the environment or upon the residents of the area and locality immediately adjacent in close proximity to the subject property;

5. The property proposed to be acquired for public purposes and use is identified on the Niagara County tax map as SBL# 101.12-1-37, and it is further;

RESOLVED, that the Town may acquire the above described property as permitted by the New York State Eminent Domain Procedure Law; and it is further

RESOLVED, that the Town Clerk is directed to publish a synopsis of the Determination and Findings in at least two successive issues of the Niagara Gazette, and it is further

RESOLVED, that notice of the synopsis shall be served by personal service or certified mail upon the property owner.

Seconded by Palmer. Carried 5-0.

Lastly, Dowd said there is a notice that has to be published as well. He asked for a resolution to authorize the Clerk to publish the Findings in the Niagara Gazette, and to serve a copy of the Determination and Findings to the property owners by certified mail. **Palmer MOVED for approval. Seconded by Marra and carried 5-0.**

SALE OF SUPPLUS PROPERTY: Reiter said this has to do with the sale of surplus Town property to the Niagara Falls Country Club. Letters were sent to homeowners on Meadowbrook seeking their interest in the property abutting their land. Dowd said one resident has expressed interest but there is a question with the title. We're continuing to work thru that with the neighbors, he said.

Regarding the Sewer Extension in Sanborn, the County has agreed to extend the time for residents are allowed to hook-up to one-year. Dowd asked the Board to consider a resolution allowing residents to connect to the public sewer system within one-year.

**SANBORN
SEWERS**

Reiter asked to table this to the next meeting.

Winkley MOVED to table, Seconded by Palmer and carried 5-0.

ANNUAL STORM WATER REPORT: Glenn Caverly, Stormwater Manager, said they have completed the Annual Storm Water Permit as required. March 9th was the fiscal ending date. It is a 51 page report and is available in the Clerk's office for review.

**STORMWATER
REPORT FILED**

Bax MOVED to accept the Storm Water Report Findings. Seconded by Winkley and carried 5-0.

SENIOR CENTER - A/C REPAIRS: Marra refereed to a request from Jeanette Collesano for consideration of repairs or replacement of the air conditioning unit and roof. D&M Refrigeration submitted a proposal to replace the Rooftop HVAC unit with

**SENIOR CENTER
REPAIRS**

a Trane unit at a cost of \$8,417.00 or to replace the Evaporator on the current unit at a cost of \$5,218.35.

Reiter said they should not authorize the work at this time. Because of the costs involved, he suggested going out for competitive bids. He also suggested working with the Building Inspector regarding the possibility of a Hip Roof with different mounts on the air conditioners to see what the cost variables would be.

Reiter said he would work with the Building Inspector to put specs together for both the roof and a/c units. He would report back at the next meeting.

MULCH DELIVERY: Highway Supt. Janese said they have a vendor coming in next week to start grinding the brush. The Highway Dept. will begin delivering the mulch within a couple of weeks. The delivery fee would remain the same as the past few years -- \$25 per 3 cu. yards.

Marra MOVED for approval of the mulch delivery fees. Seconded by Bax and carried 5-0.

EXTEND COMMENT PERIOD FOR SCOPING SESSION: Reiter asked for a motion to extend the comment period for the Scoping Session for the work to be done at Joe Davis Park until May 3.

Palmer MOVED for approval, Seconded by Bax and carried 5-0.

JDSP COMMENTS
ACCEPTED UNTIL
MAY 3.

FUND TRANSFER: The Finance Director referred to a request from Robert Nablo, Foreman to transfer funds in the amount of \$694.50 from SW1-8310.0400 to SW1-8310.0200 to cover the unexpected purchase of a fax machine and computer in the Water Department.

H2O FUND
TRANSFER

Bax MOVED for approval, Seconded by Palmer and carried 5-0.

TOWER COMMITTEE: Bax asked for a motion to advertise for applicants to the Wind Energy/Tower Committee. There is an application before the Committee currently that they cannot take action on because of lack of membership.

ADVERTISE
FOR TOWER
COMTE

Bax MOVED for approval, Seconded by Winkley and carried 5-0.

EXECUTIVE SESSION:

Reiter asked to meet with Supt. Janese, Gary Catlin and the Town Board to discuss paving, bonding and contractual issues within the Highway Dept.

EXECUTIVE
SESSION

Bax MOVED for an Executive Session. As requested. Seconded by Marra and carried 5-0.

Winkley MOVED to adjourn the Worksession and convene into Executive Session. Seconded by Bax and carried 5-0. Time: 6:40 p.m.

EXECUTIVE SESSION:

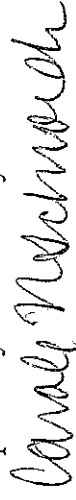
Present: Reiter, Bax, Marra, Palmer, Winkley, Catlin, Janese

Items Discussed: Highway Contractual matters.

No Action taken.

Marra MOVED to adjourn. Seconded by Palmer and carried 5-0. Minutes taken by Supervisor Reiter.

Transcribed and
Respectfully submitted by:



Carole N. Schroeder
Deputy Town Clerk