

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax, Marra, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; WWTP Chief Oper. Ritter; Building Inspector Masters, Highway Superintendent Janese; Town Engineer Lannon; Finance Officer Kloosterman; Internal Claims Auditor Johnson; Police Chief Salada; 3 Press; approximately 100 Residents and Clerk Donna Garfinkel

The Supervisor opened the meeting, followed by the Pledge of Allegiance and a moment of silent reflection.

AGENDA APPROVAL

Winkley: Appointment of the new Town Board member and Fire Bureau Code.

Bax: Removal of Warrant Server from his agenda.

Bax MOVED to approve the Agenda as amended, Seconded by Marra and Carried 4 – 0.

Winkley MOVED to appoint William Conrad to fill the vacancy on the Lewiston Town Board, Seconded by Bax and Carried 4 – 0.

The Acting Town Clerk swore in William Conrad as Town Councilman. Mr. Conrad joined the Board for the meeting.

TWO-MINUTE STATEMENTS BY RESIDENTS

The Supervisor asked if any residents wished to address the Board.

Stopa-Weiss, Alexis – 708 Ridge Road - Stopa-Weiss owns properties on Porter Center Road and has spoken to the Board prior about her concerns regarding Quasar and the possibility of a lagoon. Stopa-Weiss thanked the Town Board for following through. The Board has filed petitions, is familiar with the home-rule, and knows the State code cannot supersede Lewiston's local laws. Stopa-Weiss feels Quasar is on the run.

Hughey, Bill – 5879 Garlow Road – Hughey just took a ride through the Village looking for brush, and those streets are clean. He also took a ride through Colonial Village, and there are tree limbs piled up all over. It is winter time and there is a money shortage, but that just doesn't seem right. They have been there since December, and nothing has been done. Why is that? By golly, if Steve Reiter was still here, I believe those limbs would have been gone.

McLavery, Tracy – 4632 Creek Road – McLavery owns property in the Saddlewood development. The development for some time has suffered from various water problems. Upon McLavery joining the Board of the Homeowners Association, it was shown that the water problems were as the result of work which had not been done to code during the course of construction of the development. Unfortunately, whoever was responsible for making sure it was done to code, did not do so. It has been left up to him and a few other members on the association to contact the developer and make certain representations to him. He has agreed to the remediation of all the problems.

However, there is one aspect that needs to be brought to the Board's attention and particularly the Highway Superintendent. The same problems that exist also pertain to the road which was constructed by the developer. It was deeded and accepted by the Town of Lewiston. McLavery has seen the documents, signed by the Engineer, indicating that all was correct. It was not. The catch pits in the road have not been properly grouted and there is substance around the catch pits. They have been repaired by the Town, but the problem occurs again because the problem has not been taken care of.

As a taxpayer he doesn't want his taxpayer dollars used to remediating something, as in the past, into the future. The Engineer did not do his due-diligence.

Langlois, Darwin – Harper Drive – Langlois spoke about the increasing cost of the power. When the 50-year lease was negotiated with NYPA, the Board at the time would not sign until the

Town had an agreement to get 5 megawatts of power. That is enough for ever home in Lewiston to get the lowest cost power in New York State. The ESCO Company, Lewiston worked with, screwed it up and gave so much money back to the taxpayers for the first few years that Lewiston owed several hundred thousand dollars back to them. No credit was given to the residents the next few years. No new contract was negotiated. Someone along the line thought that power was used to run the water plant, so they decided to give a credit back on the water bills. Langlois said that is stupid. Lewiston is receiving hundreds and hundreds of thousands of dollars, over the fifty year period, in low cost power. Langlois would like Lewiston to live up to its agreement and find an ESCO company to get Lewiston its low cost power.

Kraft, William – 1534 Swann Road - Kraft thanked the Town Board for being proactive in stopping Quasar, especially Supervisor Brochey and Tim Masters who have worked extra hard on enforcing the Town laws. More increasingly across Niagara and Erie Counties and throughout New York State, Kraft is getting more and more correspondence asking for help in their communities. Kraft would like to involve the Tuscarora Nation. The permits that are already approved by the DEC are going to have a major effect on the neighboring properties of the Reservation, because many of them use well-water. Kraft extends his support to the Nation.

Kraft also heard the Superintendent of the Niagara Wheatfield School is concerned because of the close proximity to the school.

Brochey said he has spoken to Neil Patterson Jr., the Nations Environmental Officer, and he will present this to his Board of the Nation. Environmental Attorney Spitzer has been contacted and is reviewing the Town codes. Brochey will continue the fight for this.

Kraft will be attending the Town of Wheatfield Board meeting. They are addressing it a bit differently because Quasar is already in their Town. The County needs to stick together.

Witryol, Amy – 4726 Lower River Road – Witryol also thanked the Board for their initiative on Quasar and CWM. Even though some of the applications by Quasar have been approved, there is case law were towns have exercised home-rule authority after the fact to close any loop-holes there may be in the code.

She is fascinated that the DEC has created a web-page just for Quasar. It tells us that regulatory permitting insures that the operations of the applicant are protective of the public's health and safety. Witryol has looked at a number of DEC permits over the years and has never found this to be the case. The Boards over-site is welcomed, encouraged and deeply appreciated. Witryol thanked the Board again.

Fitzgerald, Pat – 2155 Adams Circle – Fitzgerald is just coming up to speed on this and requested an update on where this all stands.

Brochey said he has forwarded the Town Code to Attorney Spitzer for his review. Brochey said they would be doing all a great favor if they left Niagara County and went back to Ohio. They are cordial when speaking to Brochey and they stick by their product.

Fitzgerald questioned if the Town has final say.

Winkley said the Town Code prohibits the product Quasar produces from being transported in the Town. Brochey has been doing a good job on contacting and visiting Quasar, and being very forth-coming with them on explaining the position of the whole Board. Whether DEC issues them a permit or not has nothing to do with the Board.

Bax said the Board's position is that Lewiston has home rule. The Town is lucky in that there are a lot of vigilant residents that remain educated and keep their eyes open. Bax wishes he could say he feels comfortable after this one, but I would be lying to you. What is being presented isn't necessarily mining or a landfill. Codes are amended to account for the new challenge. There are a lot of people here tonight for the same reason. The community is very passionate about how they feel.

Craft, Ron – 105 North 4th Street – Many people are here for many ideas. The item that interests him is the fact the Board is short on the budget this year. When the Town gets short in the

budget, the Village gets short also. The next thing is higher taxes. Craft knows how much money is given to special interests and not-for-profits agencies. Craft wishes the Board would be more transparent in telling these people, at budget time, what the Board is going to give them. Going forward, Craft suggested the Board start looking after the taxpayer. These people are worried about Quasar, CWM, but higher taxes will do Lewiston in.

Craft said he is a Republican and proud of it. With what is going on around here, he is ready to register as an Independent. Taxpayers are sick of being left out. Brochey is doing a darn good job, so other Board members need to help him, because Brochey is working with you.

Brochey said the Board does see eye to eye on a lot things. He thanked Mr. Craft for his compliment and encouragement. Mike Johnson, former finance director, mentioned last year that the Board needs to work harder or the Town is looking at a Town tax.

Jolbert, William – 4235 Williams Road – Jolbert welcomed Mr. Conrad. Jolbert is much happier with the Board as it stands now, than it was a short period of time ago... In December, he stood before the Board and asked them to help the residents to defend themselves by putting Agendas on the web-site. This was done prior to the next meeting. Also, Jolbert said he is happy with the path being taken by the Board regarding Quasar. Please don't let your guard down.

He then asked what the Board's position was on the high-occupancy apartments planning to be built across the street. Is the Board going to support the recent lawsuit? Bax said the Board is not able to comment given the fact there is a lawsuit. The Town Attorneys are working on this.

APPROVAL OF MINUTES

Bax MOVED to approve the RTBM – 2/24/2014; Worksession - 3/10/2014 and Special Session – 3/18/2014, Seconded by Winkley and Carried 4 – 0 – 1 abstention (Conrad).

POST AUDIT PAYMENT

Winkley MOVED to approve Post Audit payments to Home Depot - \$1,194.96; Sam's Club - \$295.42; DeLage Landen - \$116.10; Leaf - \$455.80; and Mountain Glacier - \$45.59; and NC Municipal Clerk's Association - \$25.00, Seconded by Bax and Carried 5 – 0.

OLD BUSINESS

Brochey said Glenn Caverly is working on some projects and will wait for an update.

NEW BUSINESS

Clerk's Correspondence

The Clerk announced that a Veterans Service officer will at the Town Hall on April 8th. It is a great opportunity to learn about benefits a veteran may be entitled to.

Brochey announced that he has recently learned there are possibly 3,500 residents in the Town of Lewiston in the zip code area of 14092 and beyond that could have unclaimed funds. On April 15th, from 10 am to 1 pm, a representative from NYS Office of Unclaimed Funds will be at Town Hall. All are encouraged to come.

SUPERVISOR BROCHEY

Legal – Planning Board member training. Davis is drafting the Local law as discussed and will have prepared for the Board meeting of April 14th.

Davis requests the Board go into Executive Session to discuss a litigation issue after the meeting.

Engineering – Muckland Pumps - Lannon visited the site and is currently in contact with a manufacturer representative to determine a viable option for replacement.

Municipal Review Fee – Davis has discussed this with Lannon and Masters. Davis would like to discuss with the Supervisor and Lannon prior to formal action.

Finance – Budget Update – Finance Officer Paul Kloosterman updated the Board and residents on where the Town stands with 2013 & 2014. Brown & Co. will perform the 2013 Audit. 2013 ended out being a decent year. Approximately \$300,000 of the fund balance has been used.

The A-Fund, B-Fund and BD-Fund, the most concerning of Kloosterman's did do okay. The expenses came in a lot lower than anticipated. The Town did a Bond for \$1.7 million last year, and taking into account what it was bonded for, shows a bit of concern.

In 2014, the Town should receive approximately \$200,000 less than 2013 from Modern Tipping Fees. Another concern is Joseph Davis. The two large items will affect the Town going forward.

Highway – Janese said the department is a bit behind on the paving schedule. The Board is working on funding. Janese said he would like to do some preventive maintenance. Last year the Board allotted him \$40,000. He asked the Board to provide a similar amount this year.

The total budget for snow removal was \$280,000; Janese anticipates the actual amount will be approximately 35% above that. With the contracts the Town has with the State and County, those reimbursements should be a bit over \$225,000.

Janese thanked the Board for the additional two trucks. They have been very helpful allowing almost a full fleet out ever time it snowed.

Brochey addressed a resident's comment from earlier in the meeting regarding branch clean-up. Janese said once the weather allows this, the department will pick up the brush.

Bax asked Janese to provide the 284 Agreement to the Supervisor. Janese said he would but the dollar amount needs to be put into the contract.

Lower Mountain and Lower River Road are in pretty bad shape. Residents need to understand some roads don't belong to the Town of Lewiston; they are State or County roads. Janese is not allowed to work on them without their consent.

Zoning Board of Appeals Alternates (2) – Winkley MOVED to direct the Town Clerk to advertise for Zoning Board of Appeals applicants. Seconded by Marra and Carried 5 – 0.

Assessment – Military Road – Assessor Linda Johnson submitted a memo to the Board commenting on the purchase of 21.40 acres of commercial land on Military Road by the Niagara Falls Bridge Commission. A Local PILOT Agreement was set up for the property that they purchased at 5365 Military Road in 2002. It is Ms. Johnson's understanding this will most likely not be the case for the 21.40 acres.

Winkley believes Johnson and Kloosterman have been exploring a possible district fee. It could be \$4.9 million a year.

According to the memo, Bax said the Bridge Commission is making a payment now, close to \$200,000. It is divided between the school district, Niagara County and the Town.

Kloosterman believes Ms. Johnson is afraid they will not give any money for the newly purchased property.

Masters said when the Town designed the Master Plan; the acreage was rezoned to Light Commercial. The Bridge Commission then purchased the property for a fantastic amount of money. Now this prime piece of commercial property is coming right off the tax rolls. This happens on a daily basis.

Brochey will discuss further with Ms. Johnson and report back to the Board.

Senior Center – Brochey has received two estimates. One is for replacement of the evaporator on the Trane HVAC Unit in the amount of \$3,645.92. The other is for replacement of the rooftop HVAC Unit in the amount of \$8,547.00.

Deputy Supervisor Edwards said another issue exists, the roof is leaking. Edwards feels it would be appropriate for Building Inspector Masters to go out to bid/estimate for the two projects.

Bax MOVED to authorize the Building Inspector to solicit bids for the HVAC repair and the roof repair at the Senior Center.

When this was addressed for the town hall roof, CRA had a bid spec made up, to include insulation and additional items to add to the energy efficiency. Masters requested more direction than that.

Michael Johnson said Nussbaumer & Clark did research this, but no reports were ever given.

Bax MOVED to table for the Worksession of April 14, 2014, Seconded by Winkley and Carried 5 – 0.

Edwards said there are buckets under these leaks, an emergency repair is needed.

Lannon said if the roof cost is over \$35,000, it has to go out to bid, plans to spec, stamped by a licensed PE. Prior to this, included with the design, asbestos samples need to be taken on the roof. If there is, that would be part of the bid specs. Lannon has a relationship with a roofing company that will come and do an assessment of the roof. The HVAC fix/replacement and the roof all are done at one time.

Brochey is working on the budget for the Hydro-Power money; the HVAC system could be included. Brochey will check into the use of the money for the insulation and roof.

COUNCILMAN BAX

Liaison Report – We are reaching the later stages of improvements at the Waste Water Treatment Plant. Ritter said the project is in the final engineering phases for putting in the drying beds. Heat from the turbine exhaust helps in the drying process. This is one of the first of its kind in this area. This will save a lot of money. Now, the output from the plant is disposed of in a wet form, and this could help save a substantial amount of money in tipping fees taking it to Modern.

Pay Status of Highway Clerk – The Highway Clerk came back to work at her retirement pay for the budget year 2014. Janese has asked the Board to increase, based on the fairness that she be given a higher pay-rate. The Board has considered it, and they are not willing to do anything at this time. The Board may be able to reconsider this in the 2015 budget. There is nothing the Board can do considering the budget restraints.

Radio Tower – S. Brookside Drive – Bax has spoken to a member of the Tower Committee. This member said the application has been pulled. The Clerk was asked to contact the applicant to determine if he will move forward with the tower.

COUNCILMAN MARRA

Hawking, Peddling & Soliciting Local Law – It shall be unlawful for any person, within the territorial limits of the Town of Lewiston, (outside of any incorporated Village) to act as a hawker, peddler or solicitor as herein defined without first having obtained, and having in force and effect, a license to conduct the activity.

Marra MOVED to hold a Public Hearing on April 28th at 6:15 pm for the Hawking, Peddling & Soliciting Local Law. Seconded by Winkley and Carried 5 – 0.

On March 10th, the Board passed a resolution asking NYPA to assist with the Fire / Police Budget. Nine days later a transformer exploded and triggered a fire. Lewiston Police, Upper Mountain Fire Company, Lewiston #1 and the Sanborn Fire Company all responded and brought

the fire under control. NYPA should now understand what the Board has been talking about in the much needed revenue for Lewiston's first responders.

Marra congratulated Bill Conrad on his appointment as Councilman. He will work hard for Lewiston residents.

Bax also thanked Conrad for submitting his application. Bax has worked with him over the years, and he will do a fantastic job as a Board member.

Bax thanked all the other residents who submitted applications. All were very qualified and presented very well. For Bax it was a very difficult decision.

Marra MOVED to have the Clerk forward letters of thanks to all the interviewed applicants, Seconded by Bax and Carried 4 – 0 -1 (abstention- Conrad).

COUNCILMAN WINKLEY

Winkley introduced the Uniform – Fire Prevention Code.

Winkley MOVED to forward the Code to the Attorneys for review, Seconded by Bax and Carried 5 – 0.

Winkley MOVED to the setting of a Public Hearing for the Fire Prevention Code to the agenda for the April 14th meeting, seconded by Marra and Carried 5 – 0.

Upper Mountain members – Winkley said the Fire Departments have been doing an excellent job in keeping their rosters up to date. This is important because this affects their retirement payments.

Winkley MOVED to remove the following from the Upper Mountain Fire Company roster: Anthony, Connor; Bialas, David; Borowski, Joseph; Clark, Ryan; Collins, Amy; Dobrowski, Matthew; Dunn, Scott; Haynes, Jennifer; Magro, Vincent; Martin, Jessica; Miles, Andrew; Pardee, Angela; Swartz, Bruce; Swierczek, Mathew; Tipa, James; Torrie, Karen and Wojciechowski, Jared. Seconded by Bax and Carried 5 – 0.

Supervisor Brochey requested going back to discuss drainage. Caverly updated the Board. The breach in the drainage pipeline in Joseph Davis has been exposed and the repair will be completed. Tomorrow they will work on the second one. This should fix the 24 inch pipeline that needs to be repaired then head up to Riverwalk.

Caverly has been reviewing the drainage complaints but with the recent snow the total assessment has not been done.

There is a situation on Swann Road that is an ongoing problem with neighbors. Caverly will present a resolution to the Board. There are no ditch cards from the past. Caverly understands the Town of Lewiston didn't do the excavation of the initial ditch. It is not on the property line, it is on private property.

Caverly said going forward it is very important to get a drainage easement so the Town has access to future pipe lines. If the drainage issue is draining onto Town property or a Town road, it needs to be addressed.

Bax MOVED to enter into Executive Session, Seconded by Marra and Carried 5 – 0. (7:50 pm)

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax, Conrad, Marra, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman and Finance Officer Kloosterman

Issued Discussed – Legal Litigation

Bax MOVED to exit Executive Session, Seconded by Winkley and Carried 5 – 0. (10:40 pm)

Actions Taken:

Bax MOVED to authorize the attorneys to undertake litigation re: Legacy Drive Domain and Lewiston International Business Park Inc., Seconded by Winkley and Carried 5 – 0.

Conrad MOVED to authorize the Town Engineer to undertake various unfinished projects and bill at contract rates, under the supervision of Building Inspector Masters, not to exceed \$25,000 billing. Seconded by Bax and Carried 5 – 0.

Bax MOVED to authorize the Supervisor to sign a DOT Agreement re: I-190 / Route 265 project. Seconded by Winkley and Carried 5 – 0.

Bax MOVED to adjourn, Seconded by Winkley and Carried 5 – 0. (10:50 pm)

Respectfully Transcribed and Submitted by:

Donna R. Garfinkel
Acting Town Clerk