

PRESENT: Supervisor Broderick; Councilmembers Bax, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorney Seaman; Highway Superintendent Trane; Engineer Lannon; Building Inspector Masters, WWTP Chief Opt. Ritter; Water Foreman Townsend; Police Chief Previte; 1 Press; 9 Residents and Clerk Donna Garfinkel

EXCUSED: Councilwoman Ceretto

The Supervisor opened the meeting with the Pledge to the flag followed by a moment of silent reflection.

AGENDA APPROVAL

Additional Agenda Items: Broderick – Attorney contract for union negotiations; Ice Rink personnel: Bax – Police personnel.

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

RESIDENT STATEMENTS

Warren, Rosemary – Griffin Street – Warren noticed Duke Williams on the agenda. She doesn't know if he is getting his pond or not, but they are needed. Being raised on a fruit farm herself, with no boxes for bees, in those days there was enough in nature. If Mr. Williams needs the pond to keep the bees having water, this should be done. Warren doesn't admire too many people in her life, but she does admire him. When he attended the last meeting he was not dressed up to impress anybody.

Warren has praise for the Lewiston Police Dept. There was an accident outside of Sanborn. It is good to have local officers that can give the needed directions in a split second.

One of the women involved in the accident was taken very good care of. She was escorted across the street to her family by a Fireman. That was a classy and compassionate thing to do. Police, Fireman, ambulance drivers were all very professional and handled it very well.

DEPARTMENT HEAD STATEMENTS

Police Chief Frank Previte – This month's numbers: Ticket number not available – an upgrade on the system removed the information; 46 – accidents; 45 – arrests and 849 calls for service.

At the end of each year, information is compiled for the safest cities in New York State. Last year Lewiston was 25. This year Lewiston is #3.

Previte said not only is this a wonderful testament to the men and women that work for the department, but to the Town Board and Village Board for their commitment to public safety.

Deputy Supervisor Conrad – Conrad is working on the solar farm issue.

Chief Operator Ritter – The Waste Water Treatment Plant started accepting Modern Disposal Leachate. It is working out fine, but there needs to be a lot more testing. Ritter wants everyone to know the plant performs all types of testing on the Leachate.

Grant Writer Rotella – Rotella has requested Clerk Garfinkel register the Town through the New York State Grants Gateway. It is a registration for login purposes to help with upcoming grants.

The Greenway application for the Mohawk Trail has been submitted and will be presented January 17, 2017 at 3 pm.

Rotella will be meeting with the DOT tomorrow to look at two look-out points on the Lewiston Pathway.

The application for specialized bullet proof vests for the Police Department, in the amount of \$6,800, has been submitted to the Niagara Falls Bridge Commission.

The New York State Archives grant period is open. The Town has received a grant in the past for an electronic content management system. This is 100% grant funded, no match needed.

Bax inquired about the Kayak Launch. Rotella has spoken to the DEC, they will check into the location. With it being a nature preserve there may be possible spawning. Rotella will report back.

Morreale discussed the Clean Energy Community Program regarding LED street lights. The Town does not qualify because the Town does not own them. The Town pays the bill for the energy and the upkeep, but can't qualify. This would be a big savings for the Town.

Geiben suggested encouraging National Grid to convert. Broderick said this is something that can be looked into.

Highway Superintendent Trane – Trane distributed a packet regarding Signs. This is what the Town follows. He and the Board have received several requests for stop signs. Trane suggests the Board reinstate a signage committee to address these requests.

Geiben suggested Trane forward any letters received regarding speed to the Chief so officers can patrol the area.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve the following minutes, Work Session – 10/13/2016; PH – Override Tax Levy Limit – 10/24/2016; RTBM – 10/24/2016, Seconded by Bax and Carried 4 – 0.

AUDIT PAYMENT

Bax MOVED to approve the abstract of claims in the amount of \$875,616.47 plus a Post Audit payment of \$7,233.47, Seconded by Geiben and Carried 4 – 0.

OLD BUSINESS

Commission / Committee / Board Appointment – Geiben suggested sign requests be dealt with by the Lighting Committee.

There is a Signage Committee but it has not been filled. Trane has an employee that deals with signs and would like to have him be a member. Trane does not believe the Lighting Committee could address these requests.

Broderick discussed the sub committees – Escarpment / River Bank. Not many applicants applied. Bax suggests reaching out to the Environmental Commission Chairman to see what the intentions are.

There is a need for members on several Boards and Commissions.

Broderick MOVED to have the Clerk advertise for applications for Boards and Commissions, Seconded by Bax and Carried 4 – 0.

Bereavement Leave Policy – being addressed with the unions.

Street Light – Scovell and Lauren Court – No response received

Street Light Request – Model City Road – No response received

Williams – Soil Removal – Seaman said the code is very specific as to what constitutes mining, and the removal of soil does constitute mining. There is a procedure in the code that needs to be followed. Masters has told Mr. Williams what needs to be done to remove the soil.

Geiben asked Broderick to contact Williams.

NEW BUSINESS

Clerk Garfinkel read a letter regarding a requested stop sign.

I am writing in regard to the work done recently on Riverwalk Drive to connect the two ends of the street (recent paving). Since the paving has been completed just 2 days ago, traffic has gone up considerably. Between 4-6pm, cars now go by every minute (people appear to be cutting through instead of going to River Road). My concern is the speed people are traveling. It is a residential neighborhood, but many drivers (even UPS and FedEx drivers) are driving through at close to 40mph. A stop sign should be added to Riverwalk Drive (east end) at one of the 3 way intersections. People are driving WAY too fast down the street.

Trane has spoken to this resident and explained the practice.

SUPERVISOR BRODERICK

Liaison Report

Sewer Refund – Cimino – Ritter said this falls under the necessary criteria.

Geiben MOVED to refund \$150.00 in sewer credit to Cimino – 611 Sandlewood Drive, Seconded by Bax and Carried 4 – 0.

Legal – Article X – NYS Association of Towns Resolution to support the constitutional home-rule in the siting of wind and solar energy facilities.

Broderick attended meetings regarding the facilities. Article X is saying it will take away the Town's decision making process on what type of wind and/or solar projects can be in the Town.

Masters believes the Town should be fighting this. Broderick is requesting the Board's support for the following resolution:

Geiben MOVED for approval of the following Resolution:

WHEREAS, the New York State Constitution grants Towns broad home rule powers to adopt local laws with respect to (1) their "property, affairs and government" and (2) other powers granted in statute whether related to their property, affairs and government or not, and

WHEREAS, Home Rule establishes a local government's authority as the source for local zoning and planning power and gives municipalities great flexibility in dealing with local regulation of land use, keeping these decisions as close to the citizens who live there as possible; and

WHEREAS, the New York State Legislature enacted amendments to Article 10 of the Public Service Law to establish procedures for certifying major electric generating facilities to include renewable energy sources such as wind and solar; and

WHEREAS, industrial wind and solar power developers now seek certification from the New York State Board on Electric Generation Siting and the Environment and not local governments, to erect industrial turbines and expansive solar installations over many thousands of acres in Towns across the State; and

WHEREAS, wind and solar projects are now being proposed in record numbers across the State and numerous Towns are now faced with complex regulations, enormous and expensive tasks in order to protect the health, safety and general welfare of their citizens; and

WHEREAS, prior to Article 10, local governments successfully developed, implemented and administered local wind and solar energy siting laws and policies with the input and guidance of local taxpayers, residents, business, agricultural representatives, environmentalists, energy generators, planners and lawyers;

NOW THEREFORE BE IT RESOLVED, that the Town of Lewiston calls for the Association of Towns to aggressively support the constitutional rights of a local government, which is closest to the citizens of that region, to decide how land will be used within its jurisdiction.

BE IT FURTHER RESOLVED, that the Town of Lewiston calls for the Association of Towns to actively seek amendments to Article 10 to afford local governments and communities with 1) more meaningful participation in the siting of

industrial wind and solar energy facilities and 2) the associated funding to do so in order to protect the health, safety and general welfare of the citizens.

Seconded by Bax and Carried 4 – 0.

Conrad believes the Planning Board also forwarded a letter of support.

Attorney contract – Union Negotiations.

Broderick requests the Board approve to retain Edward Perlman in the Town's negotiations with the teamsters union for the Water Dept. and Highway Dept.

Broderick MOVED to approve the Retainer Agreement (dated 11/23/2016), with Edward Perlman in the Town's negotiations with the teamsters, Seconded by Geiben, for discussion

Morreale questioned the billing. It states in the agreement "we may not bill the Town until the project is complete". Morreale asked Perlman what this means; if this drags on for a year, Morreale wants to know where the dollars stand. Perlman said he will be submitting bills on a monthly basis.

Blazick is concerned with the finance charge on past due invoices. With the Town's billing cycle, it needs to be longer than what is provided in the contract. Perlman has no problem with that.

Seaman suggested Perlman submit a revision containing the removal of the late penalties and provide monthly or bi-monthly billing. Perlman agreed to that.

Geiben MOVED to amend the motion to include the modifications of removal of the late penalties and provide monthly or bi-monthly billing, based on Town Attorney approval, Seconded by Broderick and Carried 4 – 0.

Seasonal hires for Parks Department.

Dashineau is requesting to hire approximately 30 – 50 employees. Blazick said in previous years these positions were paid by voucher. They are employees and need to be on the books. There is an added cost of payroll taxes.

Seaman suggested setting the pay rate. Blazick said they are at different rates.

Broderick MOVED to hire up to 50 Seasonal employees for the Ice Rink, at the budgeted rate, Seconded by Bax and Carried 4 – 0.

Engineering – French Landing

Lannon reviewed his letter dated November 28, 2016 regarding the French Landing.

French Landing is being constructed between Lower River Road and Riverwalk Drive. Over the last 10 – 11 months there has been site activity happening.

Four (4) PIP's were taken out; roadway, water, sanitary sewer, storm sewer.

Water and sewer system test results were submitted and approved by the Niagara County Health Dept. Water was approved 7/3/2016, and sewer was approved 10/11/2016.

Final site walkthrough with department heads was completed in late September and individual letters indicating their acceptance have been e-mailed to the Clerk.

Final Plat Map was filed at the County Clerk's Office on February 9, 2016. CRA is in the process of preparing a project binder to include; inspection reports, field drawings, construction photos and shop drawings. The binder is being assembled and will be provided no later than December 9, 2016

Draft public roadway dedications descriptions and drainage easements deeds have been reviewed by CRA and submitted to the Town Attorney for final approval. The developer has been directed to coordinate with the Town Attorney for subsequent filing upon Town dedication.

The required 2-year Maintenance Bond has been submitted to the Town Clerk. One was submitted late last week but a minor description change needed to be done. The new and corrected Bond was submitted to the Town Clerk today, November 28th. The Bond is in effect for 2-years, in the amount of 50% of the construction of the sum of the four PIP's.

All underground utilities have been installed.

Sidewalk Agreement – It is Lannon's understanding there is an agreement that has been executed between the Town, the Developer and the Builder that delineates the schedule for the installation of sidewalks within the subdivision.

There are two (2) locations for the sidewalks. The first 500' coming off Lower River Road and the first 100' coming off of Riverwalk Drive will have no homes in front of it. This 600' will be installed by July 2017. The remaining sidewalk will be located in front of homes. It is common that the sidewalk is constructed as part of the home construction. A \$10,000 escrow has been deposited in connection with this.

Seaman said the sidewalk agreement was drafted two or three months ago. The fully executed copy was filed with the Town Clerk today, November 28, 2016. Seaman believes the \$10,000 check has been received.

Conrad questioned the sidewalk being installed as the homes are built. Will this not look like a checkerboard? Lannon said this is possible, depending on which lots are sold when. The sidewalk agreement has an expiration date. Seaman said the agreement states that if the homes are not built by a certain date, the whole sidewalk needs to be installed.

Fire hydrant issue – An additional hydrant was installed on Wolf Run. Due to the late delivery of the hydrant, Mr. Townsend loaned the developer a replacement hydrant. This will be swapped-out for a new hydrant, which will be delivered tomorrow.

The record drawings for Town-owned facilities – Lannon received the original drawings a couple weeks ago, and reviewed them with his staff. There were a few minor items that needed to be addressed (sanitary manhole needed to be re-set, minor drainage work). They are by-in-large done.

All of Lannon's fees have been paid; there are no outstanding invoices to the Town that are not being addressed. The French Landing PIP account should be at zero. Blazick said if she has everything in, it's zero.

Morreale asked if more PIP's will be received. Lannon said yes. Since the walk-through in late September, there have been a couple minor items that require correction. There are cracks in the concrete curbs and the grade on a sanitary manhole needs to be addressed.

Seeding of the grass will take place in the Spring. Lannon suggests this be added in connection with the additional PIP for the sidewalk, which needs to be done by July 2017. Lannon suggests to have these other items, site grading and the concrete repair work coincide and concurrent with the sidewalk PIP.

Morreale questioned how the PIP fee is paid. Lannon said it will be handled like all others.

Conrad recalls that during the approval discussion of this project, there was discussion of a requirement of a third-party as-built survey being done. This would verify that all done has been installed correctly and to the plan. This would help to avoid a type of situation like the one the Town dealt with in Riverwalk. Conrad asked if this was part of the as-built drawings Lannon has received.

Lannon said no, the drawings received were prepared by a surveyor hired by the contractor. The survey requirements are that the survey is done by the PIP part, signed by a New York State licensed land surveyor. If Conrad is suggesting that a separate third party surveyor go repeat this work, this has not been done, and it is not required as part of the PIP.

Conrad said he preached and preached this when he was on the Board. He wanted to make sure there is not another situation like Riverwalk.

Broderick asked if this is standard procedure. Conrad said because of the history of what Lewiston has had here, it should have been. Conrad said he asked for it when he was on the Board. There needs to be someone that is objective to go back and verify the PIP's correction.

Broderick does not believe the project was approved requiring a third party survey. Geiben has not read anywhere where there is a third party surveyor. This would need to be incorporated into future development; we can't just add it at the last minute.

Masters recalls Conrad talking about this, but does not believe it is part of the approval.

Legal

Seaman distributed the following documents to the Town Board for approval regarding French Landing: Application To Lay Out A Town Highway – signed by the owner; Dedication And Release Of Lands For Town Highway – signed by the owner; Order Laying Out Highway On Release From Owner – signed by Highway Superintendent Trane on 11/28/2016. Consent Of Town Board To Proposed Town Highway - the Board approves, signs the document, the Town Clerk signs then all are recorded in the County Clerk's office. This will make the Wolf Run a Town highway. The Town then accepts the highway, it is then the Town's responsibility to maintain it, open it for public use, etc...

Bax MOVED to Consent To Town Board To Proposed Town Highway, as described in the documents described by Seaman, Seconded by Geiben,

Seaman said this is accepting dedication of the road, Wolf Run.

Morreale believes this was rushed. The Town is in no financial condition to take anymore costs on in any development. Morreale asked Masters for his opinion on the third-party as-built.

Masters said this is the first development that has come through since Riverwalk. From Masters experience it all depends on the quality of the subcontractor. If you hire a good land surveyor that cares about his reputation, it's not a problem. If you hire a substandard contractor, then it becomes a problem. There is no guarantee to the Town, which is Conrad's concern.

Seaman said the Town Engineer is the one that is bound to the Town. The Town engineer's responsibility is to review these items, and he is in a professional relationship with the Town, so the Town is relying on them.

If a land surveyor had a bond, and with what is called privity, the Town can't go after a land surveyor for something they did for someone else. The Town relies on the professionals the Town hires, and in this case it is the Engineer.

Masters said this is what the 2-year maintenance bond does. Conrad said the Town would have to act quickly.

Trane said he walked through the property at the end of September and everything was fine. The country curbing, catch basins, any issues Trane had, have been addressed. Masters has made Trane aware of several cracks and catch basins that need work. This in the matter of two months. This is caused by the construction being done. The as-built would not show this. The Town is not liable for this. Trane said it is not that big of a cost issue if the Town had to fix it.

Broderick said Lannon will address some of these issues with the future PIP for the sidewalks.

Bax MOVED to accept the dedication of Wolf Run as described in the various documents, Consent to its laying out as a Town Highway, and authorize the Supervisor and/or Town Attorney to sign any necessary further documents to record said documents, acceptance is contingent on the owner fixing the curb and grading issues, Seconded by Geiben and Carried 4 – 0.

The Board needs to accept the Easement for the storm drainage facilities. The ponds, piping, as laid out, will become the responsibility of the drainage district. Seaman okays this Easement to legal form.

Bax MOVED to accept the Easement and authorize the Supervisor and/or the Town Attorney to sign any documents necessary to file the same, Seconded by Geiben and Carried 4 – 0.

The Town Zoning Board of Appeals granted variance for a sign for the subdivision. Once the roadway is dedicated, which it now is, the sign is in the Town right-of-way. The ZBA set a condition on the granting of variance that the Town Board agrees to it and that a Hold Harmless Agreement be signed.

Geiben MOVED to approve the Hold Harmless Agreement and authorize the Supervisor to sign, Seconded by Bax and Carried 4 – 0.

Seaman will make sure all original signed documents are filed with the Town Clerk.

COUNCILMAN BAX

Chief Previte submitted a list of equipment requesting the Board declare surplus.

Bax MOVED to declare the list from Chief Previte dated November 28, 2016 as surplus equipment, Seconded by Geiben and Carried 4 – 0.

Bax said the Chief has someone, not an officer or Town employee, who will sell the items on E-Bay. Previte said this will be done at no cost to the Town or department.

Seaman said there is no specific manner of sale for surplus items. The Town needs to take measures to attempt to maximize the revenue amount received. If the Board feels this is the best way to do this, it can be sold on E-Bay.

Bax MOVED to allow the sale of the surplus Police Department items on E-Bay, Seconded by Geiben

Broderick questioned Seaman if this is something the Town wants; having someone help the Town sell stuff on a web-site. Seaman questioned who will be taking the money. Previte said it will be made out to the department. Chief Previte will over-see the sales.

Carried 4 – 0.

Chief Previte informed the Board that a full-time officer will be leaving the department. Previte is looking for the Board's consideration in filling this position. This position is essential to the current two-car coverage.

COUNCILWOMAN CERETTO – excused

COUNCILMAN GEIBEN

Rezoning request – Woods at Blairville - Washington Drive

Masters said they applied for a Rezoning Application to go from R-2 to Planned Unit Development District. They have also applied to the Zoning Board of Appeals for variance to the density requirements from 8 to 10.

Geiben MOVED to forward the Rezoning Request – Woods at Blairville – Washington Street to the Planning Board, Seconded by Bax and Carried 4 – 0.

COUNCILMAN MORREALE

One-lot Subdivision – Albright Road

Morreale MOVED to approve the One-lot Subdivision – Mawhiney – 2820 Albright Road, SBL#90.00-3-33, Seconded by Bax and Carried 4 – 0.

Morreale MOVED to accept the Planning Board's recommendation to treat as a minor subdivision, Seconded by Bax and Carried 4 – 0.

Approve Letter to Historical Preservation Program Analyst

Historic Preservation Commission is requesting the Supervisor forward a letter to the Historical Preservation Program Analyst Survey and Evaluation Unit. This will allow the Commission to become a Certified Local Government.

Supervisor invited Mrs. Maggard, Historic Preservation Commission Chairman, to address the request. Maggard believes this is a very important undertaking. All necessary documents are in order and ready to accompany the letter. This will allow the Commission the privileges of receiving grants, training, expertise and many other important things.

The Village of Lewiston already has this designation. The Town can't join theirs due to being separate municipalities. There are only four areas in Niagara County that are certified.

Morreale MOVED to accept the letter as presented, Seconded by Geiben and Carried 4 – 0.

Warren, Rosemary – Griffin Street – Warren would hope the Board would fill the police position soon, because winter is when you have more accidents.

Warren forwarded a letter to Comptroller DiNapioli and an Executive Director in Buffalo that residents in Lewiston are not getting their rebate checks in a timely manner. The Town outside auditor said the finance person needed extra help, so a Junior Auditor was hired. Families could use the money for holidays and heat.

Warren knows that Blazick was thanked for the hard work she did on the budget. Were the budget figures left in a confusing manner, or incomplete manner, that made her job much harder? Every job has a crunch time. Warren hopes that next year this will be easier for Blazick. Whatever ground work she laid this year, by working harder, is easier for her next year.

Glasgow, Paulette – The Circle – There are several items the Board discussed tonight. Mr. Perlman's contract – will that be on the web-site for residents to review?

Glasgow requests the many documents Seaman presented for French Landing be put on the web-site, along with Mr. Lannon's punch-list. .

Our greatest weakness lies in giving up. The most certain way to succeed is to try again.

At the November 9 Public Hearing on the 2017 Budget, Glasgow asked many questions. On November 14th, in a very selective manner, some of those questions were answered and some were ignored, and some had answers that had nothing to do with what was asked.

Even though the 2017 budget has been approved, in the true spirit of transparency, Glasgow deserves answers.

It was asked why there was an increase of \$300,000 in spending from the Tentative Budget to the Preliminary Budget. If this is to be a bare-bone budget, spending was to be cut across the board, 10% - where did the \$300,000 come from?

If spending was cut 10%, why has the Attorney Contractual line item increased by \$25,000, or an increase in spending of 17%?

Glasgow asked why the Town employs so many attorneys. The Town just hired another one tonight. Why was there an increase of 21% in legal fee spending? The Town's response was as follows: the 2017 budget for personal services contractual line items total \$169,500 along with \$100,000 for CWM litigation.

First – In the November 9th comments, never did Glasgow question, ask about, or mention CWM litigation.

Second – The 2017 budget has no line item for Attorney personnel services.

Third – The budget does have Attorney Contractual line item, with the appropriation of \$175,000, not \$169,500.

Glasgow asks again, “Why does the Town employ so many attorneys?”

If this is to be a bare-bones budget with spending cuts of 10%, why is there an increase the Attorney Contractual line item of \$25,000 or 17%? Where did the \$25,000 come from?

Glasgow brought to the Board’s attention and asked why the Town is permitting a Town employee to solicit cash donations from Town residents for services provided to taxpayers. Glasgow cited three State Comptroller opinions, which state, “There is no general statutory authority for municipalities to solicit from taxpayers, gifts or donations to cover Town expenses for services provided to taxpayers”. Since the subject of this employees fund raising solicitation has been approved in the 2017 budget, which is about \$66,000, why is the Town permitting this employee to continue solicitations of cash donations in direct violation of the State Comptrollers opinion?

Glasgow thanked the Board for listening. There are many more questions that have not been answered, but will wait for these answers. There will be many more questions about spending and funding.

Seaman said he issued a memorandum to the Town Board, on the particular issue. It said everything Seaman wanted to say.

Correa, Nancy – Riverwalk Drive – Mr. Conrad made a very good recommendation regarding the independent surveyor. Correa doesn’t see why this was not entertained. An independent surveyor not owing allegiance to anyone but the Town, be hired to review and make sure all the i’s are dotted and t’s crossed before giving up the right to have added protection.

Seaman referred to variance documents, but they were not made available publicly so that residents could review them and speak intelligently before the Board.

Correa would appreciate the Board’s effort to keep residents informed, would include all documents from all, and be available to the residents.

The Town doesn’t want any more problems like Riverwalk, so for this reason the Board should have listened to Mr. Conrad, the Deputy Supervisor and the Chairman of Planning Board.

Highway Superintendent Trane asked the Board if it is necessary to have approval from the Board to appoint Darlene Norwich. Broderick said this can be done at the Work Session.

The Board needs to schedule a Final Audit meeting for the end of December. Clerk asked to put on the agenda for the Work Session of the 12th.

Bax MOVED to adjourn, Seconded by Geiben and Carried 4 – 0.

Respectfully Transcribed and Submitted by:

Donna R. Garfinkel
Town Clerk