

**PRESENT:** Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorneys Seaman & Catalano; Engineer Lannon; Recreation Director Dashineau; Water Maintenance Townsend; Grant Writer Rotella; 2 Press; 10 Residents and Clerk Donna Garfinkel

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

Broderick explained the change in the organization of the Board. This is called a Town Board Work Session and it is better suited as a Work Session to be at a round table, look at all in attendance and actually discuss the issues. If this works, the Board will continue this way, if not, will go back to the old system.

#### AGENDA APPROVAL

Agenda Additions: Broderick – Confidential Secretary / Policy on Public Speaking; Seaman – Executive Session for purpose of consulting with Attorneys on privileged matters.

**Bax MOVED to approve the Agenda as amended, Seconded by Geiben and Carried 5 – 0.**

#### APPROVAL OF ABSTRACT

**Geiben MOVED to approve the regular abstract of claims numbered 875 – 1020, and recommend payment for this abstract in the amount of \$357,793.44, plus a post-audit of \$0, Seconded by Bax and Carried 5 – 0.**

#### DEPARTMENT HEAD CONCERNS

*Finance Officer Blazick* – Blazick and Geiben have discussed extensively the allocation of the salary increase for the Town Clerk. At the Board meeting of March 28<sup>th</sup> the Board voted to have these dollars come from the Junior Accountant budget line. These dollars are allocated to other funds through the Administrative Allocation; therefore the Board needs to make budget adjustments to accommodate the salary increase.

**Geiben MOVED to void the previous motion the Board made on March 28, 2016 in regards to the fund to pay for the salary increase for the Town Clerk, Seconded by Bax and Carried 5 – 0.**

**Geiben MOVED that the fund for the salary increase for the Town Clerk be as follows: Account A00-5010-0100-0000 - \$7,650.00; Account A00-1410-0100-0000 \$7,650.00; Account A00-1310-0100-0001 - \$5,400.00; Account A00-1220-0100-0000 - \$5,400.00, Seconded by Ceretto and Carried 5 – 0.**

Blazick spoke on behalf of Ritter. He is looking into replacing a copier at the WPCC. Broderick discussed the possibility of getting one company, one contract for all four buildings. Depending on how fast Ritter needs the copier, could determine the route the buildings move ahead in.

*Water Maintenance Townsend* – There is a water issue that has been plaguing the Town water lines for years. In July, 2014 a letter was submitted to the Board from Les Myers, Chairman of the Bureau of Fire Prevention, but was not addressed. The issues outlined were: Creek Road, north of Pletcher near Lewiston Porter School; Lower River Road and the Morgan Farms Subdivision; Mayflower Road and Sweethome Road area.

Townsend created the following list of what he feels are also priority: Lower River Road from Chicora Road to Pletcher Road - 12” PVC waterline be installed to replace the 6” cast iron. (80 homes); Morgan Drive from West Park Lane to Lower River Road - 12” PVC waterline to tie into the existing 12” that comes across from the Parkway. This would supply sufficient water down Lower River Road. This would allow the Town to abandon a 12” cast iron waterline that runs from Vrooman Drive to Pletcher Road. (80 homes); Mayflower Road and Sweethome Road subdivision needs to be replaced with 8” PVC. There is insufficient flow for fire hydrants.

Creek Road from Pletcher Road to the Town of Porter line. Replace the 8” cast iron waterline with 12” or 16”. An engineering study was done for this section by Nussbaum and Clark, LLC. in 2014.

Townsend said these need to be addressed as soon as possible. Broderick asked Townsend to discuss this so all Board members are aware that it needs be addressed. A 5-year plan could be designed with these being priorities.

Lannon would like to review the report, but the next step would be to decide if this needs to go out to bid or if the work can be done by Town staff. Townsend believes going out to bid. With that being said, Lannon said the next step is to put together a set of plans and specifications for advertisement. Those plans need to be approved by the Niagara County Health Dept. prior to awarding the contract. Lannon was asked to review the report and work with Townsend on a 5-year master plan.

Broderick asked Rotella to research grant dollars.

Lannon said in regards to financing, look at the nine locations, calculate the length, diameters, estimated construction cost, project cost, map plan and report. This will help the Board to decide what financial route to take.

Geiben asked Seaman what this would do to the tax cap. Seaman said this is a water improvement, a district, which has two inflows of income. There is a tax base along with water rates. Seaman suggests the Board have Lannon put together some type of proposal for his firm to put together a plan.

If the Board chooses, to save money, Town forces can do certain designated streets and a contractor do the remaining.

Geiben questioned if this is including Highway staff. Townsend said yes. The Water Dept. is in the middle of a 3-year meter replacement project.

Morreale asked Lannon about the burying of the pipes. There needs to be 4 ½ feet of cover over the crown of the pipe. The trench depth will be around 6 – 6 ½ feet then install the pipe, then top with 4 ½ foot of cover. Otherwise you will have freezing issues.

*Recreation Director Dashineau* – Dashineau received a list of people regarding green space issues. Dashineau understands the Highway Dept. has a list from last year. Dashineau would like to see that. Garfinkel to forward the list located in the Clerk's office.

**LEGAL – Agreement with National Grid for issuing HYDRO rebate funds**

Part of the HYDRO Allocation was designated for the residential users in the Town. Blazick has been working on the best way to disburse these dollars. The easiest way is to request National Grid produce a list of residential users in the Town and they have agreed to do this. Before the Board tonight is a resolution for the Supervisor to sign, outlining their estimated reimbursement costs. The estimated cost of \$500.00, which Seaman believes to be very reasonable, has been submitted.

The cost that is contributable to the above will come off the top of the HYDRO Allocation dollars. Seaman has reviewed the contract and it looks okay.

**Geiben MOVED to authorize the Supervisor to execute the contract between the Town of Lewiston and Niagara Mohawk Power Corporation D/B/A National Grid, Seconded by Bax for discussion**

Geiben said this is in lieu of reimbursement on Town water bills. Seaman said there is money in an account designated and ear-marked for distribution to residential electric users. This is a one time distribution.

Blazick said the account is slightly over \$1 million, which will calculate to approximately \$100 – \$150/each household. The Board needs to move forward and execute this. The checks cannot be issued from the Town's accounting system because that will double the vendors, and will cost the Town. The Board needs to hire a company to issue these checks, this will be more cost efficient. This is a one-time payment to the residents, since the ultimate user has been changed to the Town. This will close out the resident's payment.

Morreale questioned if the Town needs to go out to bid. Seaman said it depends on the cost.

**Motion Carried 5 – 0.**

## PROCEDURE FOR POSTING MEETING DOCUMENTS TO THE TOWN WEBSITE

This was brought to the Board's attention at the last meeting. Seaman researched and the Board will need to determine what "practicality" is. That is the word that is used in the statute presented by the resident. The statute reads: "records that are available through FOIL as well as any proposed resolution, law, rule, regulation or policy that are going to be the subject or discussion at a meeting, should be made available prior to the meeting to residents, and if there is a Town website, should be put on the website to the extent practicality as determined by the agency".

The statement "as any proposed resolution, law, rule, regulation or policy that are going to be the subject or discussion at a meeting" is simple to determine, this can be distributed on the site. Other items will warrant a discussion between the Clerk, Attorney and Supervisor.

Bax suggested creating a list of commonly received/reviewed items, and for each subcategory make a policy, like for subdivisions – cover page. The Board does not want to put undo burden, or create a new department or employee for this task. It does make sense to put the practicable information out.

Seaman said this doesn't supersede or do away with FOIL; residents can always make a FOIL request. These are not every communication that comes into the Town, it's an agenda item that will be discussed and the materials that have to do with it. The intra and inter agency materials having to do with what will be discussed, are not available under FOIL, therefore they would not be posted.

Seaman suggests the Board create a date/time deadline and those received can be posted along with the agenda.

Geiben said some communications received are full of inaccuracies and would confuse and fog the issues.

Once determined what items can be released, it will be placed on the website, along with the agenda on the Friday prior to the meetings.

## BEREAVEMENT LEAVE POLICY

An employee has requested that "Step-Parent" and "Foster" be added to the Policy Manual. Seaman said this is the second such request. Catalano asked to review this section of the Policy Manual and return information for the Board meeting.

## SENIOR VAN SERVICES TRANSPORTATION AGREEMENT

The Town has an agreement with Niagara County Office for the Aging. Catalano said this is similar to the one done every year. The Town provides Senior Van Services and is reimbursed by Niagara County through a Federal Grant.

**Bax MOVED to authorize the Supervisor to sign the Niagara County Office for the Aging, Town of Lewiston Transportation Contract, Seconded by Ceretto**

Geiben said the contract reads January 1<sup>st</sup>, will it be retroactive? Catalano said yes.

**Motion Carried 5 – 0.**

## SENIOR FIRE INSPECTOR

Patrick Martin and Don Cosentino are Town Fire Inspectors. Les Myers, Chairman, Bureau of Fire Prevention, requests the Board name Patrick Martin the Senior Fire Inspector due to his experience and longevity with the Town.

At budget time Cosentino's salary was increased to Martin's level. Myers would like to address this by naming Martin Senior Inspector, with a slight increase.

Geiben said there is no history as to how the salary is set for this position, and what is the reason to having a Senior verses a Junior. Broderick will research how the two were created. Geiben suggested keeping the rates the same and giving a stipend for additional duties.

Broderick will ask Myers to attend the April Board meeting.

#### HAZ-MAT VEHICLE

The Town had two Haz-Mat vehicles at Lewiston Fire Company #2. One was transferred to the Water Department. The remaining one is more of a fire truck. Niagara County has taken over all Haz-Mat duties for the Town and they are requesting the truck.

Terrance Hailey, Sitting Chief Haz-Mat in attendance. Hailey said, with Board approval, requests the truck so it can be used for services through the County. The truck will be housed at the County.

Broderick said the value of the truck is approximately \$10,000. There is no other department within the Town that is interested in the vehicle. All Chiefs from the Fire Companies are 100% in favor of donating the vehicle to the County.

Seaman said this would have to be in conjunction with some type of inter-municipal agreement. The Town can't just give something to the County. There may already be an agreement in place that has to do with emergency services that may allow it, if not; the Town would need to have an agreement.

#### ST. PETERS 5K RUN – USE OF TOWN GRILL

St. Peters has requested the use of a Town gas grill. Broderick said last year was the first 5K run. Dashineau does not know where the grill came from last year, but told St. Peters he could not lend out Town equipment without Board approval. This will be off-site and a private organization. They are requesting the grill be delivered to the church.

Seaman said if the Board agrees there would need to be some type of agreement.

Bax suggests Ceretto call them and ask them to find an alternative source due to the difficulties that would be involved to make it happen.

#### DISPOSAL OF SCRAP METAL – PARKS DEPARTMENT

The Park's Department has accumulated scrap metal at the Outfall Building (fences, tables, backstops, posts) and Dashineau requests the Board declare it surplus and of only salvage value.

**Bax MOVED to declare the scrap metal at the Outfall Building as surplus and of only salvage value, Seconded by Geiben and Carried 5 - 0**

As part of the project at Washuta Park, a concrete footer was going to be installed by the Park's Dept., but Dashineau is requesting to go for Request for Proposals. It is estimated the project will cost approximately \$15,000

The estimates being received are far below the threshold of municipal public work projects. It will be an additional cost on top of it, which will be absorbed into H-61. This is the fund that the entire project is coming from.

A normal baseball field is to have about 4-inches of baseball dirt, which is a very expensive material. There are areas at the park that have 14 – 15 inches of it. 12 truck loads have already been removed, giving the Town a savings of \$45,000 over the next couple of years.

Seaman said the Town's Procurement Policy states that a public works project at this value would be 3 written proposals.

**Broderick MOVED to authorize Dashineau to obtain Requests for Proposals for the Concreter Footer for Washuta Park, Seconded by Ceretto and Carrie 5 – 0.**

#### ROADSIDE DITCH AND CULVERT POLICY

Seaman researched past Comptroller Reports regarding how the Town was handling residents request to convert their open ditches into covered culverts. The Comptroller recommends that if the Town is going to do this, the Town should be recouping the full value of the project from the resident. Cosgrove said he is doing something similar to what is being proposed tonight, but Seaman feels it is wise to put it in writing so all know what needs to be done to convert the ditch.

Seaman composed the policy from a combination of what Cosgrove and the Comptroller recommended. Broderick said this is an important policy so all are doing and paying the same.

Residents will pay for all materials plus a \$100 fee and \$3.50/linear foot of pipe. This will cover the full cost to the Town.

**Bax MOVED approval for the following Roadside Ditch and Culvert Policy, Seconded by Geiben.**

**WHEREAS**, the Town of Lewiston maintains a town wide drainage system which consists, in part, of roadside ditches and roadside culverts. The interconnected system of roadside ditches and culverts provides for road drainage throughout the Town as well as generalized drainage capacity for real property throughout the Town, and thereby serves and benefits the whole Town, and

**WHEREAS**, residents and property owners at times request that open ditches along the roadside adjoining their property be converted from an open ditch to a buried culvert. The Town recognizes that this conversion to buried culverts does serve the Town as a whole by lessening the need for ongoing ditch cleaning and grubbing, and also for aesthetic reasons which add to the desirability, value, and tax base of the Town. Nevertheless, although there are benefits to the Town of converting open ditches to buried culverts, the primary benefit of such serves the individual property owner of the abutting land.

**Now therefore**, in consideration of the above premises, the Town of Lewiston adopts the following Roadside Ditch and Culvert Policy:

**Request for Conversion**

1) Residents and property owners may make a request of the Town Highway Department to convert open roadside ditches adjoining their property into buried roadside culverts. Such requests shall be in writing addressed to the Town Superintendent of Highways.

2) The Town Highway Superintendent shall evaluate the request and determine whether the requested conversion will have any negative impact on the Town's drainage system. If, in the Highway Superintendents opinion, there will be a negative impact the request may be denied.

3) If the Highway Superintendent determines that the requested conversion will not have a negative impact on the Town's drainage system, and if there are no other impediments to the conversion, the Highway Superintendent may grant the request for conversion subject to the payment provisions of this policy and any other conditions the Highway Superintendent may impose.

4) Once payment is made and all conditions met, the Highway Superintendent may schedule the conversion to be completed by Town Highway Department personnel. Ditch conversion is a low priority task and shall be scheduled by the Highway Department as time permits and shall not take precedence over any other Highway Department function.

5) Nothing in this policy shall be construed as conferring a right on any property owner to have ditches abutting their property converted into culverts. Whether or not to undertake a conversion is entirely within the discretion of the Town and/or Highway Superintendent.

6) The Highway Department will only undertake to install the necessary pipe, fill, and rough grade the filled area. The Highway Department will not provide or install topsoil, seed, or anything else. The property owner will be responsible for additional fill, grading, etc. needed due to subsequent settling of the area.

**Payment**

1) The property owner shall be responsible for payment to the Town for all costs associated with the ditch conversion. The Highway Superintendent shall provide the property owner with a list of materials, including pipe, fill, gravel, etc. needed for the job, as well as the cost of such materials. The property owner shall be responsible for paying the full cost of these materials.

2) In addition to the cost of the materials, the property owner shall be responsible for paying a fee to the Town in the amount of **\$100.00** plus **\$3.50** per linear foot of ditch to be converted. This fee has been calculated by the Highway Superintendent based on the cost of Town labor and equipment required. This fee, along with the cost of materials, is intended to cover the full cost to the Town of the ditch conversion. The fees herein may be amended from time to time by Town board resolution.

3) Payment in full of the cost of materials and the fees detailed above must be made to the Town prior to commencement of any ditch conversion.

**Carried 5 – 0.**

**POLICY ON PUBLIC SPEAKING**

Broderick researched other municipalities and distributed to the Board the Town of Elma's policy. Depending on the number of speakers, there is a time limit of 3 – 5 minutes per person, at the discretion of the Board. If 2 people want to speak, the Board would not have a problem with a 5 minute speaking forum. If there were 100 people, it would be backed down to 3 minutes, and so on.

Broderick will work with Seaman and draft a policy for the Board to review at the next meeting. Geiben also suggested if a resident had a letter or outline of topics they would like to have discussed, possibly submitted ahead of time.

#### CONFIDENTIAL SECRETARY

Barb Cich will be retiring in June. Seaman researched the position and has found that Cich was hired as the Confidential Secretary, but at some point was moved to another position. She holds two Civil Service positions; Confidential Secretary and Senior Typist with Confidential Secretary duties, both being on the books for the Town.

Seaman believes the Board needs to set the salary for the Confidential Secretary position, hire the person, have both employees for a couple of months, then when Cich retires don't fill the position.

**Broderick MOVED to set the salary for the Confidential Secretary at \$22.25/hour, Seconded by Geiben and Carried 5 – 0.**

Broderick interviewed Amy Smith, and will have her start on April 25, 2016.

**Broderick MOVED to appoint Amy Smith as the Supervisor Confidential Secretary at a rate of \$22.25, Seconded by Bax and Carried 5 – 0.**

#### ZONING BOARD OF APPEALS

Chairman Paul Hutchins' last Zoning Board meeting will be April 15<sup>th</sup>.

**Broderick MOVED to appoint William Burg, term to expire December 31, 2020, and appoint Anita Muzzi as Chairwoman, Seconded by Geiben and Carried 5 – 0.**

#### RESOLUTION AGREEMENT WITH STATE OF NEW YORK

Lannon updated the Board on the bridge-deck replacement on Route 190 and Military Road. The Town entered into an agreement with NYSDOT to allow CRA to inspect the job on the Town's behalf. The State requested CRA estimate their fee. CRA estimated \$150,000, but the State said they had to stay below \$50,000.00. The agreement was then made for \$49,900.00. During the construction of the waterline there were issues. One waterline that hangs below the bridge-deck had several leaks. There was extensive investigation into to why this occurred. CRA told the contractor that the waterline would not be accepted with any leaks.

This investigation caused the inspection fee to increase by approximately \$78,000.00. Lannon has been working with the DOT on an amendment. The agreement being presented tonight is for \$128,928.47. This work was done by CRA on behalf of the Town, but not paid for by the Town.

NYSDOT is requesting a resolution be passed by the Town authorizing the Supervisor to enter into this agreement. Four copies need to be signed, notarized and forwarded to the State for the dollars.

**Geiben MOVED a resolution to approve and authorize the Supervisor to sign Supplemental Agreement No. 1 in connection with cost of relocating municipally owned facilities maintained for public use PIN 5019.17, Agreement No. T036753, Seconded by Bax and Carried 5 – 0.**

The agreement reads:

WHEREAS, the parties entered into a contract dated May 1, 2014 under which, among other things, the COMMISSIONER agreed to reimburse the MUNICIPALITY for the amount not to exceed \$49,900.00, except as such sum might be increased by a supplemental agreement, and WHEREAS, additional work that was not contemplated in the original agreement was necessary, and

WHEREAS, the said sum of \$49,900.00 set forth in the said agreement dated May 1, 2014 is inadequate for the purposes thereof,

NOW, THEREFORE, in consideration of the mutual benefits moving to each of the parties hereto, it is agreed as follows:

1. The amount of \$49,900.00 set for in paragraph four (4) of the agreement dated May 1, 2014 and effective September 1, 2012 is hereby increase to \$128,928.47.
  2. The MUNICIPALITY specifically agrees that this Supplemental Agreement shall be deemed executory only to the extent of the moneys available and that no liabilities shall be incurred by the STATE beyond the moneys available for the purpose.
  3. Except as provided in this Supplemental Agreement, the terms and provisions of the said agreement dated may 1, 2014 and effective September 1, 2012 are and shall continue to be in full force and effect.
  4. This supplement agreement amends the test of the agreement as follows: Adds Appendix 2-S (Iran Divestment Act) attached hereto.
- IT WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

**Bax MOVED to enter into Executive Session, Seconded by Geiben and Carried 5 – 0.** (7:20 pm)

**PRESENT:** Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorneys Seaman & Catalano

Discussion – Consultation with the Attorneys

**Bax MOVED to exit Executive Session, Seconded by Broderick and Carried 5 - .** (7:42 pm)

The Board discussed a matter regarding a resident, who, through their attorney, sent a letter to the Town alleging the Town had some liability, based on a sump pump inspection at their house, prior to purchase. They are alleging the Town was negligent in their inspecting and that it resulted in damage to the basement as well as the need to install equipment.

Seaman has reviewed with the Board the legal position and possible legal routs. Seaman has spoken to the resident's attorney, Mr. Boniello and he is willing to settle the matter for \$3,500. A proposal was submitted for the work. It is in excess of the amount they are offering to settle at. They are not asking for, at this point, money to compensate for damage done in the basement.

**Geiben MOVED to approve the payment of \$3,500.00 to Fortino, 1114 Ridge Road, conditioned on a full release given by the homeowner, and no acknowledgement of wrong doing, Seconded by Bax and Carried 5 – 0.**

Jeff Ritter notified the Board there will be a ceremonial planting of a tree at the Water Treatment Plant. The Seniors have asked Ritter to plant the tree in honor of Rosalie Kilmer, who served the Town for 22 years and passed away in December, 2015. He would like to hold a small ceremony at the next Work Session. The tree will be donated by the staff of the Senior Center.

**Geiben MOVED to plant a tree at the Water Treatment Plant in honor of Rosalie Kilmer, Seconded by Ceretto, and Carried 5 – 0.**

**Geiben MOVED to adjourn, Seconded by Bax and Carried 5 – 0.** (7:50 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel  
Town Clerk