

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra and R. Winkley; Dep. Sup. G. Catlin; Atty. M. Dowd; Atty. M. Davis; Hwy Supt. D. Janese; Eng. R. Smith; WPCC Admin. J. Ritter; Finance Director M. Johnson; Bldg. Insp. T. Masters; Police Sgt. F. Previte; 3 Press; 20 Residents and Dep. Clerk C. Schroeder

Also Present: Rec. Dir. M. Dashineau; Dep. Hwy. Supt. K. Payne

Excused: Councilman Palmer

Supervisor Reiter led the Pledge of Allegiance followed by a moment of silent reflection.

The Supervisor opened the meeting with a presentation re potential energy saving opportunities at various Town buildings -- Town Hall, WWTP and Town of Lewiston Pump Stations.

Steve Bottita introduced himself as Account Executive and Sam Marotta, Lead Energy Engineer for the Danforth Co. Mr. Bottita thanked the Board for the opportunity to present their proposal for energy savings. Bottita said the Company was established in 1884 with businesses located in Buffalo and Rochester (Victor). They are a single source provider for energy performance contracting and mechanical service needs -- providing mechanical retro fits and mechanical upgrades, as needed, to provide potential savings to the Town in terms of energy usage. Danforth has hundreds of partnerships throughout WNY.

Bottita said Energy Performance Contracting (EPC) provides local government agencies the opportunity to take budgeted utility and operation costs and reallocate them into self-funding energy conservation measures with a guaranteed savings contract. Anything that is running and consuming energy that it is not running as efficiently as it could is a prime candidate for an upgrade, he said. An EPC allows you to implement solutions with guaranteed financial and operational performance without the need for capital funding or the need for public approval of referendums. It is done thru a tax exempt municipal lease agreement. It is handled internally.

Bottita said it is their goal to improve building efficiency and improve the working environment for Town staff and to work hand in hand with NYSERDA and National Grid to achieve rebate incentives.

Before the Town can proceed with an energy audit, Bottita said the Board would have to issue RFPs for competitive procurement before selecting an Energy Service Company.

The Supervisor asked for questions from the Board.

Bax inquired as to what other municipalities Danforth has worked with. Bottita replied, the Town of West Seneca, Village of Fredonia, Wyoming County, Town of Lancaster, and City of Lockport, to name a few.

Winkley asked what the average savings is. Marotta said the savings is generally 10 to 30% of energy bills depending on the age of the building and what the consumption is.

Following this presentation, the Supervisor introduced Louis Giardino who provided an update on further happenings at Joe Davis State Park. Mr. Giardino introduced himself as Managing Consultant of the Joseph Davis State Park Local Development Corporation (JDSPLDC). As you recall from our last worksession, we gave a report to the Board on the status of our development project at Joe Davis. Some of the concerns from our last meeting had specifically addressed issues regarding modifications of the lease with the State Parks Department and advancing our capital program and our plan as we discussed that has been outlined publicly. Since our last meeting, the State has responded to our proposals by letter. We got that letter the day we had the meeting -- March 26. At that point, once we reviewed the State's response we shared that information with Senator Maziarz and Assemblyman

Ceretto, as they have requested to be informed on the progress as well. They had suggested we arrange a meeting with the State Agency in Albany. That meeting took place on the 17th of April. Mr. Marra, Mr. Catlin, Chairman Neil Nolfé and I went to Albany and met with four agency members including the Commissioner of Parks, the Dep. Commissioner, Dep. Commissioner of Operations, as well as a representative of the Governor's office. Senator Maziarz conducted the meeting. Assemblyman Ceretto attended the meeting and Supervisor Reiter was at the meeting via telephone conference.

At that meeting, the Department of Parks reiterated their willingness to continue supporting our capital improvements under the current operating agreement which requires State Parks to weigh in on every one of the details. As you know, they have provided us with a list of comments on the proposal. Those comments were general in nature and require us to report back in more detail. Many of the items require ongoing studies under the SEQRA. We will, as we have agreed to in the cooperative agreement, proceed forward with that as well.

The issue regarding the modification of the lease terms that we discussed at the worksession is currently under review with the agency. They understand our need to modify the lease. They are familiar with the details. They have to interact with other agencies in the State, such as the Comptroller's office. They will be researching the details of that and assembling the process we all are expected to follow as well as State parties. We left that meeting with the agreement that there will be a bi-weekly telephone conference directly with Parks that will be attended by members of the Board, the Supervisor, members of the LDC Board, Assemblyman Ceretto and Senator Maziarz, as well as on occasion a representative of the Governor's office. I would have to say that overall we have made some advancement on what our position was two weeks ago. The Office of Parks has not indicated at all that they had any real problems with any part of our proposal but did indicate that further study was going to be required. That said, I know this Board is very troubled with the progress that's been made since February 2011. We did provide, and all the members of the Board, has a copy of what we call our Joseph Davis State Park discussion time-line. It hi-lights the milestones, including the communiqué that had gone on between our community and State Parks. It was agreed that that process can be troubling even by State Parks. That was admitted by some of their staffing. Hopefully, with the addition of the two week telephone conferences that will change. The Town's position was clearly stated at that meeting. State Parks understands what that is. They have agreed to respond cooperatively.

Marra: It is moving forward methodically on their end. They are being very thoughtful as we go forward. I was told after the meeting by their Environmental Counsel that they are trying to look at every avenue and be sure things go forward as required by State law. Something positive that came out of the meeting was the enthusiasm by the NYS Parks Commissioner about the plan itself. She said numerous times she was very exited about the opportunity and just wanted to be sure that we were able to do things as required by State law and the Comptroller's office. On that front, I was very encouraged in her response to that.

Giardino: They also commented several times on the good work that has taken place at the park up to this point and emphatically agreed that all the work that has been done was necessary. They did not have any problems with any of that as we proceeded. They appreciate the investment of the Greenway Commission funds that would be dedicated to this under our plan which is unprecedented in the State Parks system. It has not been done before and that was admitted by State Parks.

Reiter asked Mr. Giardino to stay around in case anyone had any questions.

With that being said, Reiter said the two presentations have been completed. He opened the two minute statement period of the Regular Meeting.

RESIDENTS STATEMENTS:

Rosemary Warren, 5842 Griffin Street, said she has written to Comptroller DiNapoli; Chief Executive Robert Meller; Robert Freeman, Open Government Commission; State Parks Commissioner Rose Harvey and Western Director Mark Thomas as she thought the

Engineering Proposals for Joseph Davis Park were not handled correctly. Mrs. Glasgow and I were in the Clerk's office when the deadline had come for the proposals. The envelopes were put in a box and given to Supervisor Reiter. I didn't know whether he should be the sole person to be in charge and wondered how and where they would be given to the LDC consultant to look at. I feel the consultant should have been in Town. There were eight envelopes but later the list had a ninth one. That one did not arrive on time. It did not come to the Clerk's office, where the Public Notice said the bids would be accepted. Mrs. Glasgow and I have questioned the LDC tactics at times and I hope you do not feel that we are the only ones holding up projects, but in some way I guess we are. I sent a picture a few months ago of the Hotel Conference Center to Commissioner Harvey because it would disturb nature in building it. All projects have to be approved by the State. Also, I feel that whoever negotiated that 10-year lease with the State was not thinking too far ahead, 20-years should have been a minimum. They were in more dire circumstances to have someone take the park over for them. I've always said that I am for improvement in the park. I'm an outdoor's person. As I've quoted before, I feel you should have done one good project and done it well. Mr. DiNapoli is going on a crusade. He has two bills he is targeting on Local Development Corporations. One, he wants to be able to audit them directly because he feels they skirt the law at times. He would be able to audit them directly if he found there was any concern. The second bill would put limits on what LDCs can do. It would prohibit them for being used to avoid restrictions on procurement of goods and services. Thank you.

April Fideli, 343 Howard Drive, Youngstown (T/Porter): I am the President of Residents for Responsible Government and I'm speaking on behalf of them tonight. I'm here to speak about the engagement between the Niagara County Legislature and the Town of Lewiston for the Environmental Attorney, Gary Abraham. For the past seven years, there have been no problems with this engagement. This year, we were told by some Board members that the funding wasn't going to continue because they didn't know what it was being spend for. Have they ever asked? It protects the health and safety of the people of this community. The Niagara County Legislature is continuing to engage in their part of the funding. This is very important for the protection of the people of this community. We have a unique situation having a Hazardous Waste Landfill in our community. The current landfill, CWM, is trying to get a permit for a second landfill and some changes to its existing landfill. The people of this community need representation at the table during this process. We will no longer be the hazardous waste dumping ground. We want to promote tourism, green jobs and people to move to one of the most beautiful places in the world. The Niagara County census says the "under 5" population has dropped 30% in Lewiston-Porter. People are not moving here. They don't want to be neighbors with another hazardous waste landfill. It is absolutely imperative that the Town of Lewiston reinstate the funding.

Charles Lamb, Youngstown, continued some of the remarks by Ms. Fideli. I'm very grateful that the Town of Lewiston has been on record in the past as opposed to a new or an expanded hazardous waste landfill. I can't think of anything more important for the good of this community and the health of our citizens than to stop the importation of hazardous waste here. The Dept. of Environment Conservation has said it isn't needed. The Niagara County Legislature is continuing their portion of the funding of the environmental attorney and I hope you will do the same. CWM's permit application to expand will be dealt with either this year or next. We really need an environmental attorney on board to protect our interests. I know that you are thinking of a large amount of money for Joseph Davis Park – that's fine with me. But, \$50,000 for the environmental attorney is far less than that and maybe more important because everything is going to be very much damaged if another hazardous waste landfill is put there. I would like to count on you to put that funding back and make sure we have the protection that the citizens of this whole area deserve. Thanks for considering this.

Paulette Glasgow, 836 The Circle, said her FOIL request regarding Joseph Davis Park has been in Mr. Giardino's possession since Feb. 17 and she hopes to get the answers to these questions. The other thing, under Public Officer's law, a meeting is an official convening of a public body for the purpose of conducting public business. A public body is an entity of which a quorum is formed to conduct public business. A quorum is defined as a majority of a public body of members available on a scheduled meeting to conduct that public business. The public is usually noticed along with the press when these meetings occur. In three

separate instances, the April 17 meeting that Mr. Giardino alluded to, was advertised. At the official meeting of March 20, a motion was made and seconded to hold the meeting at 6 PM at the Senior Center on April 17. The second time was in a newspaper article. The third time was at the last meeting where Mr. Giardino said the committee meets the third Tuesday of every month. Imagine the public's surprise when we sat at the Senior building along with a town employee for an hour and a half waiting for people to show up. Mr. Nolfé, Mr. Giardino and Mr. Catlin were in Albany. This committee makes up seven members. Five members were available. That is a quorum. You paid a Town employee to sit in an empty building for an hour and a half. No one gave a clerk or Mrs. Collesano the courtesy of telling them that no one was showing up for the meeting so you didn't have to pay a town employee. Since it is the Clerk that advertises all the meetings outside on the signboard and Mrs. Collesano has one similar on her lawn. They are given prior notice of the meetings to put on their respective signs. I make that request as a resident of this Town.

Gretchen Duling, 135 Main Street, Village of Youngstown, said the Board has a request before them from Teresa Donaldson, for support of the funding of a book publication, entitled, *From the Mouth of the Niagara River*, representing the four historic villages, along the Niagara River. She and Mrs. Donaldson are here tonight to answer any questions the Board may have.

AGENDA:

Additions:

Marra: Recreation Hires, Street Light Proposal

Reiter: Planning Board Correspondence (3), Seasonal Employment (Water)

Bax MOVED to accept the agenda, as modified. Seconded by Winkley and carried 4-0.

MINUTES:

Marra MOVED to approve the minutes of 3/26/2012 (Jt. T/V Mtg.); 3/26/2012 (Presentation re JDPLDC); 3/26/2012 (RTBM); 4/9/2012 (Worksession); and 4/13/2012 (Special Mtg. re Insurance Coverage). Seconded by Bax and carried 4-0.

POST-AUDIT:

Marra MOVED for approval of post-audit payments to Home Depot - \$871.00; Sam's Club - \$22.96; DeLage Landen Inc. - \$116.10; Mountain Glacier LLC - \$36.44; NYS Unemployment Insurance - \$5,702.75; Niagara County SART (Child Advocacy Center) - \$50.00; Pertech - \$211.65; Ray Moore-Buffalo Party Jumpers - \$1,500.00 and 360 Profession Services Group (360 PSG) - \$1,555.00. Seconded by Bax and carried 4-0.

PENDING BUSINESS:

None.

OLD BUSINESS:

None.

CLERK'S CORRESPONDENCE:

None.

Supervisor Reiter:

Legal:

Attorney Dowd said he is continuing to work on getting the bonds completed for Sanborn Sewers and Elm & Annover Waterline.

Engineer: Eng. Smith spoke with regard to the Elm & Annover Waterline project. Once the weather breaks, Smith said they will begin restoring the road and lawn areas.

Finance: Johnson asked for a motion to authorize the Supervisor to execute the contract with 360 PSG for Web Design, subject to the attorney's approval.

Bax MOVED to authorize the Supervisor to sign the contract with 360 Design, subject to attorney approval. Seconded by Marra and carried 4-0.

Support of Funding of Book: The Board received a request from Teresa Sharp Donaldson for a letter of support for a special, bi-national project -- a book celebrating the rich histories of four communities along the Niagara River. The book has been written entirely by local volunteers with great cooperation from the respective historical associations. Proceeds from the sales of the book will go to these respective historical associations. They are applying for funding from a numbers of sources, including the Niagara River Greenway Commission and Niagara Falls Bridge Commission, and request a general letter of support of the project.

Bax MOVED to endorse a letter of support. Seconded by Winkley and carried 4-0.

Planning Board Correspondence: The Planning Board on April 19, 2012 approved a request from William Mussel for a one-lot subdivision for property on Dickersonville Road, SBL#75.00-2-20.2, as presented; Approved a request from Frank Colucci for one-lot at 915 Edna Drive, SBL# 131-06-1-49, with the condition that the new deed shows a restriction to allow access through the 66' of road frontage to the existing property owners on the north side of the road; and Approved the site plan from Niagara University for a storage building behind the Kiernan Center with the condition that the road be constructed within the 150' of the rear portion of the building for accessibility to fire trucks.

Bax MOVED to issue a negative declaration on said projects, based on the recommendation of the Town's Environmental Commission. Seconded by Marra and carried 4-0.

Bax MOVED to accept the recommendations of the Planning Board for approval for all three projects. Seconded by Marra and carried 4-0.

Water Personal: Reiter received a request from Bob Nablo for permission to hire Kyle Nablo as a seasonal employee in the Water Department at \$12.00 per hour.

Marra MOVED for approval. Seconded by Winkley and carried 4-0.

Councilman Marra:

Speed Study: Marra said the Town received a response from the NYSDOT regarding impending speed studies on Rt. 265 (Military Road) and Rt. 31 (Saunders Settlement Road). Upon completion of the studies, the State will provide their recommendations.

Recreation Hires:

Marra MOVED to approve the hiring of the following individuals:

Brent Atkinson	Laborer P/T	\$9.15 p/h
Alex Nowocien	Laborer P/T	\$9.15 p/h
Michael Richards	Laborer P/T	\$9.15 p/h
Robert Rougeaux	Laborer P/T	\$9.15 p/h

Seconded by Bax and carried 4-0.

Notes from the Parks & Recreation Department:

- The Rec. Dept. will be hosting open interviews for program assistants on Tuesday and Wednesday, April 24 and 25.
- The Rec. Dept. is looking for umpires, scoreboard operators and other positions within the department. Baseball and Softball programs give many kids as young as fourteen years old their first opportunity to earn a paycheck while being involved with youth sports and town functions.

- The Rec. Dept. is currently interviewing for their Summer Day Camp Program. These positions are classified by Civil Service as Recreation Leaders and are only available to qualified applicants age 18 and older.

Street Light Proposal: Marra said National Grid submitted a streetlight cost proposal for one 70-watt HPS standard cobrahead on the existing wood pole # 5042 Forest Road, which would be consistent with the existing lighting in this area. The total estimated annual cost would be \$85.54.

Marra MOVED a Resolution approving the installation of said light at 5042 Forest Road. Seconded by Bax and carried 4-0.

Councilman Winkley:

Winkley announced a Haz-Mat meeting has been scheduled for Wednesday, April 25 at 7 PM, to be held at the Lewiston No. 1 Fire Company.

Councilman Bax:

Procurement Policy Modifications: Bax said it is his understanding that the Town has a policy that was recently switched to the State's Procurement Policy. In the Town's recent audit, it was identified that the Town's policy was more stringent and more exacting than the policy that the State had proposed. Bax said the Town should go back to its previous guidelines which would reduce the policy for any procurement above \$5,000. Anything over \$5,000 would fall under the procurement policy for the Town.

The Finance Director said the State Controller's office is encouraging the Town to give Department Heads a purchasing card for purchases of \$2,000 or less. Johnson didn't think this was a good idea unless the Department Head attaches the back-up paper work (receipts) to the voucher. Johnson said the guidelines the Town had before worked okay. It's the larger purchases they have a problem with.

Bax asked to put this matter under Old Business for further discussion.

Lastly, Reiter said conversations with the State concerning Joe Davis Park have been frustrating. On several occasions, the State has been down to inspect the park. According to the lease, Reiter said the State is supposed to contact the Town before they do an inspection. I find it unbelievable that some of the State Park Commissioners would drive around and look at the park without contacting the Town. That should be brought forth next time we have discussions with them. Reiter said the Highway and Parks Departments have done a yeoman's job in cleaning the park and making it presentable for use. That was refreshing coming from the State, Reiter said.

Bax asked if there would be a question and answer period with Mr. Giardino. Ms. Glasgow had questions before. I thought a public forum would be a most appropriate for this.

Glasgow: Mr. Bax, as I said up there at the microphone, I had given him a list of questions on February 17th. I know he has a long ride back to Rochester. He can email the answers to those questions. I do have two additional questions, thou. In fact, it came to my attention today from the ABO (Authority's Budget Office) that, per the law, the LDC has to file paperwork every year – a budget, procurement & a financial report by March 31. To date, the ABO does not have that. There is a very good possibility if they do not get that information the ABO will pull their rights to be a public authority. They need that information.

Bax: The money that is being expended at this time is coming from other budgets in the town. They are no funds specifically allocated to the LDC at this point.

Giardino: That is correct. However, we did file with the ABO a budget for 2011 & 2012. We were unable to file an annual report because there was no activity in the

LDC. Until we are under a firm contract with the State Department of Parks it was deemed to be unnecessary to advance that program. However, we still have the budget. It's been filed. It's on our website. It's posted also with the ABO. The only thing that hasn't been filed is an annual report which was due for 2011 which there was no activity. Technically, there was wasn't any report required.

Glasgow: Two points: As of this morning, the ABO does not have this website he alludes to. They have it now. I gave it to them. Secondly, and Mr. Giardino alludes to it, under the ABO regulations with the procurement policy, if the LDC employs a staff member and since the Town is paying Mr. Giardino money (\$2,400/month) that needs to be sent to the ABO and he also has to be under contract with whomever. That contract needs to be approved and it needs to be sent to the State Comptroller. Because the Town Board is paying his salary, he is technically an employee of this Town working for the LDC, there needs to be a contract. That is from the State Comptroller's office and the ABO. That's not my words gentlemen.

Dowd: I would say it has to be a professional services contract but I believe he is working for the LDC and the Town is paying the funds that will be reimbursed by Greenway Funds. I'll certainly look into it. If we need to formalize it we certainly can do that.

In closing, Reiter read an announcement of upcoming meetings:

*Public Hearing, May 14, 2012 re Re-zoning (Tim Horton's) at 6 PM followed by worksession.

*RTBM, May 24, 2102 (Thursday), 6 PM.

Winkley MOVED to adjourn. Seconded by Marra and carried 4-0. Time: 7:10 PM.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk