

Present: Supervisor D. Brochey; Councilmembers A. Bax, B. Ceretto, Wm. Conrad & R. Winkley; Eng. R. Lannon; Attorneys M. Davis & B. Seaman; WPCC Ch. Op. J. Ritter; Police Chief C. Salada; Finance Director M. Blazick; 2 Press; 7 Residents and Dep. Clerk C. Schroeder

The Supervisor called the Work Session to order, followed by the Pledge of Allegiance and a moment of silent reflection.

#### *AGENDA*

Brochey: Addition of Countywide Government Efficiency Plan.

**Bax MOVED to approve the agenda, as amended. Seconded by Conrad and carried 5-0.**

#### *ABSTRACT*

**Ceretto MOVED to approve the Regular Abstract of Claims Numbered 5371 to 5658 and recommended payment in the amount of \$199,268.74, plus a post audit of \$372,154.42. Seconded by Conrad and carried 5-0.**

#### *POST AUDIT*

**Ceretto MOVED to include the following vouchers for post-audit payment: Brown & Co, LLP - \$10,000.00; First Niagara Risk Management - \$168,110.41; Key Bank - \$50.00; NY State Unemployment Ins. - \$11,181.97; NYS Teamsters Council Health & Hospital Fund - \$32,711.53; Sam's Club - \$515.99; Sanborn Area Historical Society - \$1,000.00; Sanborn-Pekin Free Library - \$13,625.00; Shelterpoint Life Insurance - \$90.30; Staples - \$356.33; Time Warner - \$171.85; United States Postal Service - \$3,400.00. Seconded by Bax and carried 5-0.**

#### *DEPARTMENT HEAD CONCERNS:*

The Town Assessor Linda Johnson invited Cindy Baire, Vice President of GAR Associates for a short presentation on the advantages of having a Full Value Assessment. From here, the Assessor said she would be setting up appointments with the Office of Real Property New York State Tax and Finance on a RFP. Once this process is finalized, she will review the proposals and submit them to the Town Board. From this point, she will set up meetings to discuss whether they will be able to move forward and to choose a Company to assist with the Reevaluation.

Ms. Baire thanked the Board for allowing her to speak. She provide some written material for the Board to look at. She has been speaking with Ms. Johnson for some time exchanging ideas. The public needs to be informed about what a reevaluation is. It's costly and it's an item no one wishes to discuss but it is necessary. The greatest benefit of doing a reassessment is to make sure that every taxpayer in the Town is paying their fair share of the tax burden. Inequities pop up over the years because properties appreciate and depreciate differently. The last town-wide reassessment was in 2000. From 2001 – 2005, assessments were maintained at 100% under the Annual Reassessment Program NYSORPTS. We make sure the community is involved. It is a very uncomfortable time from the taxpayers' perspective. We want them to have the information and we want it to be transparent. We take the extra effort to educate them and take that burden off the Assessor. We can't make everyone happy but at the end of the day I can make sure that they understand what their value is and how it was derived. It will be a fair and equitable process.

Baire said reassessment is not mandated by NYS. But, Real Property Tax Law §305 states that all property must be assessed uniformly. Full value assessment is the most practical and understandable method. They do a lot with communities in spreading cost of these projects over multiple budget years so it is not a burden on the community. We try to spread these payments over multiple years. Whatever the cost, we're willing to work with the community.

Conrad: Without a Town tax, how do we benefit from the whole re-evaluation?

Baire: They still have to pay a County and School tax. It's making sure those are equitable for everyone. Overall, there are some benefits Town-wide. You're total Town tax base plays into bonding rates, insurance premiums, the wealth of the total community and how it plays in the sales tax revenue.

Baire thanked the Board again for the opportunity to speak. If the Board had any further questions, they could contact her directly.

*CELL TOWER RENEWAL FEES:*

Conrad said he talked with the Chairman of the Tower Committee after the last meeting. They are having a meeting on Wednesday, May 7<sup>th</sup> at 4 PM with the Building Inspector to try and resolve the renewal fees for the towers. He will report on the results from that at the RTBM.

*FINANCE:*

a) *Snow & Ice Personal Services:* The Finance Director said she wanted to take a moment to clarify the line item of Snow & Ice as it relates to Personnel Services of the Highway Department. The Highway Supt. has been quoted in the paper as saying, "that snow removal costs went up from \$198,000 in 2013 to \$265,000 in 2014 – and said the Town only budgeted \$75,000 last fall for snow removal this season." Blazick said that money is budgeted in another line. We need to transfer that money. We have overspent snow and ice for the last year by \$11,000. We have to come up with the money for that. We need to look at other sources for that. The majority of that money is the matter of re-classifying the budget as well as the cost into the proper line item. We want to be in compliance with what the State is asking us to do. I just wanted to take a minute to clarify that issue. It's not \$200,000, it's \$11,000.

b) *GASB 43 & 45 Actuarial Valuation Services:* Blazick said they need a resolution authorizing the Supervisor to sign a contract with USI Consulting Group in the amount of \$3,900 to prepare a full valuation of post-retirement welfare benefits that meet the requirements of GASB Statement No. 45. This is something that is required by GASB and is required as part of audited financial statements. It is also part of the Town's disclosure statements. This is something that absolutely needs to be done. This report is done every three years.

**Winkley MOVED to authorize the Supervisor to sign a contract with USI Consulting Group for GASB services in the amount of \$3,900. Seconded by Conrad and carried 5-0.**

c) *Proposed Advance Refunding Bond Resolution:*

**The following resolution was offered by Councilman Winkley, who moved its adoption, seconded by Councilman Bax:**

A RESOLUTION AUTHORIZING THE ISSUANCE PURSUANT TO SECTION 90.00 AND/OR SECTION 90.10 OF THE LOCAL FINANCE LAW OF REFUNDING BONDS OF THE TOWN OF LEWISTON, NIAGARA COUNTY, NEW YORK, TO BE DESIGNATED SUBSTANTIALLY "VARIOUS PURPOSES REFUNDING (SERIAL) BONDS", AND PROVIDING FOR OTHER MATTERS IN RELATION THERETO AND THE PAYMENT OF THE BONDS TO BE REFUNDED THEREBY.

WHEREAS, the Town of Lewiston, Niagara County, New York (hereinafter, the "Town") heretofore issued an aggregate \$2,275,000 Various Purposes Serial Bonds, 2006, pursuant to various bond resolutions to pay the cost of water (\$610,000) and sewer (\$1,665,000) improvements, such Various Purposes Serial Bonds, 2006, being dated June 15, 2006 and maturing or matured on June 15 annually (the "2006 Bonds"); and

WHEREAS, the Town heretofore issued an aggregate principle amount of \$6,947,500 Various Purposes Serial Bonds, 2008, pursuant to various bond resolutions to pay the cost of water improvements (\$5,800,000), drainage improvements (\$167,500), road reconstruction (\$485,000), and water meters (\$495,000), such Various Purposes (Serial) Bonds, 2008, being dated August 15, 2008 and maturing or matured on August 15 annually (the "2008 Bonds"); and

WHEREAS, it would be in the public interest to refund all, or one or more, or a portion of one or more, of the \$980,000 outstanding principal balance of the 2006 Bonds maturing in 2016 and

thereafter (the "2006 Refunded Bonds"), and the \$4,720,000 outstanding principal balance of the 2008 Bonds maturing in 2018 and thereafter (the "2008 Refunded Bonds", together with the 2006 Refunded Bonds, the "Refunding Bonds"), each by the issuance of refunding bonds pursuant to Section 90.00 or Section 90.10 of the Local Finance Law; and

WHEREAS, each of such refundings will individually result in present value savings in debt service as so required by Section 90.10 of the Local Finance Law; NOW THEREFORE, BE IT

RESOLVED, by the Town Board of the town of Lewiston, Niagara County, New York, as follows:

Section 1. For the object or purpose of refunding the outstanding aggregate \$5,700,000 principal balance of the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (i) the principal amount of the Refunded Bonds, (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date on which the Refunded Bonds which are callable are to be called prior to their respective maturities in accordance with the refunding financial plan, as hereinafter defined, (iii) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including the development of the refunding financial plan, as hereinafter defined, compensation to the underwriter or underwriters, as hereinafter defined, costs and expenses of executing and performing the terms and conditions of the escrow contract or contracts, as hereinafter defined, and fees and charges of the escrow holder or holders, as hereinafter mentioned, (iv) the redemption premium to be paid on the Refunded Bonds which are to be called prior to their respective maturities, and (v) the premium or premiums for a policy or policies of municipal bond insurance or cost or costs of other credit enhancement facility or facilities, for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued not exceeding \$6,750,000 refunding bonds of the Town pursuant to the provision of Section 90.00 or Section 90.10 of the Local Finance Law (the "Town Refunding Bonds" or the "Refunding Bonds"), it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$6,140,000, as provided in Section 4 hereof. The Refunding Bonds described herein are hereby authorized to be consolidated for purposes of sale in one or more refunding bond issues. The Town Refunding Bonds shall be designated substantially "VARIOUS PURPOSES REFUNDING SERIAL BOND" together with such series designation and year as is appropriate on the date of sale thereof, shall be on the denomination of \$5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be numbered with the prefix R-15 (or R with the last two digits of the year in which the Refunding Bonds are issued as appropriate) followed by a dash and then from 1 upward, shall be dated on such dates, and shall mature annually on such dates in such years, bearing interest semi-annually on such dates, at the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the Supervisor pursuant to Section 4 hereof. It is hereby further determined that (a) such Refunding Bonds may be issued in series, (b) such Refunding Bonds may be sold at a discount in the manner authorized by paragraph a of Section 57.00 of the Local Finance Law and pursuant to subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, and (c) such Refunding Bonds may be issued as a single consolidated issue. It is hereby further determined that such Refunding Bonds may be issued to refund all, or any portion of, the Refunded Bonds, subject to the limitation hereinafter described in Section 10 hereof relating to approval by the State Comptroller.

Section 2. The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the Supervisor shall prescribe, which terms shall be in compliance with the requirements of Section 53.00 (b) of the Local Finance Law. If less than all of the Refunding Bonds of any maturity are to be redeemed, the particular refunding bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Supervisor.

The Refunding Bonds shall be issued in registered form and shall not be registrable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the bonds in accordance with the Book-Entry-Only system of DTC. In the event that either DTC shall discontinue the Book-Entry-Only system or the Town shall terminate its participation in such Book-Entry-Only system, such bonds shall thereafter be issued in certificated form of the denomination of \$5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to The Depository Trust Company, New York, New York, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such Book-Entry-Only System. Principal shall only be payable upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the Town Clerk as Fiscal Agent as hereinafter provided).

In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the registered owners of the Refunding Bonds as shown on the registration books of the Town maintained by the Fiscal Agent (as hereinafter defined), as of the close of business on the fifteenth day of the calendar month or first business day of the calendar month preceding each interest

payment date as appropriate and as provided in a certificate of the Supervisor providing for the details of the Refunding Bonds. Principal shall only be payable upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the Supervisor as fiscal agent of the Town for the Refunding Bonds (collectively the "Fiscal Agent").

Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount.

Principal and interest on the Refunding Bonds will be payable in lawful money of the United State of America.

The Supervisor, as chief fiscal officer of the Town, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act, in connection with the Refunding Bonds, as the Fiscal Agent for said Town, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the Town, regardless of whether the Refunding Bonds are initially issued in certificated or non-certified form; provided, however, the Supervisor is also hereby authorized to name the Town Clerk as the Fiscal Agent in connection with the Refunding Bonds if said Refunding Bonds are issued in non-certificated form.

The Supervisor is hereby further delegated all powers of this Town Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Supervisor, and a facsimile of its corporate seal shall be imprinted thereon. In the event of the facsimile signature, the Refunding Bonds shall be authenticated by the manual signature of an authorized officer or employee of the Fiscal Agent. The Refunding Bonds shall contain the recital required by subdivision 4 of paragraph g of Section 90.00 of the Local Finance Law or subdivision 4 of paragraph j of Section 90.10 of the Local Finance Law, as applicable, and the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of the Refunding Bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the Fiscal Agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the Fiscal Agent.

Section 3. It is hereby determined that:

- (a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by subdivision 1 of paragraph b of Section 90.10 of the Local Finance Law;
- (b) the maximum period of probable usefulness permitted by law at the time of the issuance of the respective Refunded Bonds, for the objects or purposes for which such respective Refunded Bonds were issued is as described in Exhibit A attached hereto and made a part hereof;
- (c) the last installment of the Refunding Bonds will mature not later than the expiration of the period of probable usefulness of the objects or purposes for which said respective Refunded Bonds were issued in accordance with the provisions of subdivision 1 of paragraph a of Section 90.00 of the Local Finance Law or subdivision 1 of paragraph c of Section 90.10 of the Local Finance Law, as applicable;
- (d) the estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, if any, computed in accordance with the provisions of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law, with regard to each of the respective series of Refunded Bonds, is as shown in the Refunding Financial Plan described in Section 4 hereof.

Section 4. The financial plan for the aggregate of the refundings authorized by this resolution (collectively, the "Refunding Financial Plan"), showing the sources and amounts of all moneys required to accomplish such refundings, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit B attached hereto and hereby made a part hereof. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in one series to refund all of the Refunded Bonds in the principal amount of \$6,140,000, and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in said Exhibit B. This Town Board recognizes that the Refunding Bonds may be issued in one for more series, and for only one or more of the Refunded Bonds, or portions thereof, that the amount of the Refunding Bonds, maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Town will most probably be different from such assumptions and that the Refunding Financial Plan will

also most probable be different from that attached hereto as Exhibit B. The Supervisor is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and at what time, the amount of the Refunding Bonds to be issued, the date or dates of such bonds and the date or dates of issue, maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph e of Section 57.00 of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan for the Refunding Bonds and all powers in connection therewith are hereby delegated to the Supervisor; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.00 or Section 90.10 of the Local Finance Law, as applicable. The Supervisor shall file a copy of his certificates determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The Supervisor is hereby authorized and directed to enter into an escrow contract or contracts (collectively the "Escrow Contract") with a bank or trust company, or with banks or trust companies, located and authorized to do business in this State as said President shall designate (collectively the "Escrow Holder") for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law.

Section 6. The faith and credit of said Town of Lewiston, Niagara County, New York, are hereby irrevocably pledged to the payment of the principal and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be annually levied on all the taxable real property in said Town a tax sufficient to pay the principal and interest on such Refunding Bonds as the same become due and payable.

Section 7. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder for the Refunded Bonds. Accrued interest on the Refunding Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with Section 90.10 of the Local Finance Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

Section 8. Notwithstanding any other provision of this resolution, so long as any of the Refunding Bonds shall be outstanding, the Town shall not use, or permit the use of, any proceeds from the sale of the Refunding Bonds in any manner which would cause the Refunding Bonds to be an "arbitrage bond" as defined in Section 148 of the Internal Revenue Code of 1986, as amended, and, to the extent applicable, the Regulations promulgated by the United States Treasury Department thereunder.

Section 9. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Local Finance Law, in the event such bonds are refunded, the Town hereby elects to call in and redeem each respective series of Refunded Bonds which the Supervisors shall determine to be refunded in accordance with the provision of Section 4 hereof and with regard to which the right of early redemption exists. The sum to be paid therefor on such redemption date shall be the par value thereof plus the redemption premium, and the accrued interest to such redemption date. The Escrow Agent for the Refunding bonds is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the times provided in the Refunded Bonds. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the callable Refunded Bonds and the direction to the Escrow Agent to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor law thereto.

Section 10. The Refunding Bonds shall be sold at private sale to Roosevelt & Cross Inc., (the "Underwriter") for purchase prices to be determined by the Supervisor, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of the delivery of and payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance

Law, the Supervisor, is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Supervisor to the Underwriter in accordance with said purchase contract or winning purchaser upon the receipt by the Town of said purchase price, including accrued interest.

Section 11. The Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, preform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby.

Section 12. All other matters pertaining to the terms and issuance of the Refunding Bonds shall be determined by the Supervisor and all powers in connection thereof are hereby delegated to the Supervisor. The Supervisor shall be further authorized to issue said Refunding Bonds pursuant to Section 90.00 or Section 90.10 of the Local Finance Law as said officer shall determine necessary.

Section 13. The validity of the Refunding Bonds may be contested only if:

1. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
2. The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
3. Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. A summary of this resolution, which takes effect immediately, shall be published in the official newspapers of said Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The Clerk was directed to poll the Board on the adoption of the Resolution:

Councilman Bax – Aye; Councilwoman Ceretto – Aye; Councilman Conrad – Aye; Councilman Winkley – Aye; Supervisor Brochey – Aye. **Motion carried 5-0.**

#### *MODERN RESOLUTION*

#### **Councilman Bax MOVED the following resolution in support of granting a license to Grow Medical Marijuana to Lewiston Greenhouse, LLC of Lewiston, New York.**

WHEREAS, the use of medical marijuana has proven effective in treating symptoms of cancer, HIV, post-traumatic stress disorder, muscle spasms caused by multiple sclerosis, nausea from cancer chemotherapy, or appetite and weigh loss caused by chronic illness, such as HIV, or nerve pain, seizure disorders, Crohn's disease; and

WHEREAS, twenty-three states and the District of Columbia currently have laws legalizing marijuana in some form including New York's Compassionate Care Act, which Governor Andrew Cuomo signed into law on July 5, 2014; and

WHEREAS, New York's program allows marijuana to be administered to people with illnesses including epilepsy, multiple sclerosis, A.L.S., Parkinson's Disease, Huntington's disease, neuropathies, spinal cord injuries, cancer and HIV/AIDS, with the state health department to decide within 18 months whether to add Alzheimer's, muscular dystrophy, dystonia, post-traumatic stress disorder, and rheumatoid arthritis, with other ailments includable as additional conditions at the discretion of the Commissioner at any time; and

WHEREAS, the Compassionate Care Act further states the following conditions make aa patient eligible for medical marijuana in New York: a serious condition defined as: having one of the following severe debilitating or life-threatening conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication or intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, or as added by the commissioner; and (ii) any of the following conditions where it is clinically associated with, or a complication of, a condition under this paragraph or its treatment: cachexia or wasting syndrome; severe or chronic pain; severe nausea; seizures; severe or persistent muscle spasms; or such conditions as are added by the commissioner; and

WHEREAS, any manufacturer seeking a license to grow the drug in New York will have to meet a series of qualifications, under the direction of the state's health department and its commissioner, and has to demonstrate it can maintain security; and

WHEREAS, the law also stipulates that only five manufacturers will be licensed to grow medical marijuana, with each being allowed to run up to four dispensaries around the state, and that the growing of the medical marijuana must be done indoors; and

WHEREAS, in the Town of Lewiston in Niagara County, Lewiston Greenhouse LLC is expected to submit an application to the State of New York to be granted the right to grow medical marijuana at their H2 GRO facility, a 12 acre greenhouse on Pletcher Road; and

WHEREAS, the issue has bi-partisan support in the Town of Lewiston and the Niagara County Legislature, a significant point since support from local legislative bodies is a condition of the application process for companies that wish to secure a license to grow medical marijuana in the state; and

WHEREAS, the awarding of a license to grow medical marijuana to Lewiston Greenhouse LLC will have significant economic development benefits to the county and its taxpayers, as counties wherein medical marijuana is grown will receive 22.5 percent of the state's seven percent excise tax charged on medical marijuana; and

WHEREAS, this body also recognizes the benefits of medical marijuana for individuals suffering from the aforementioned diseases and/or ailments; therefore be it

RESOLVED, that the Town of Lewiston does hereby support the granting of a license to grow medical marijuana to Lewiston Greenhouse LLC of Lewiston, New York, with the stipulations put in place by the State of New York and those arising from all other applicable statutes, codes or ordinances.

**The Motion was seconded by Conrad and carried 5-0.**

*LEWISTON-PORTER CSD – WATER CHARGES:* The Supervisor noted that the Lew-Port CSD experienced a major water main break on February 25, 2015. It took an extensive amount of time to locate the break and repair it. The escaped water did not enter the sewer system. As a result, Lew-Port recently received a water/sewer bill that was substantially higher (almost 3 times) as to what they normally average for 3 months. They respectfully request an abatement of the charges that are over and above what they would normally have incurred.

**Winkley MOVED to table for review by Jeff Ritter of the Sewer Treatment Plant. Seconded by Bax and carried 5-0.**

*SANBORN FIRE COMPANY:* The fire company submits for active membership the following individual: Trevor Wendt, 5768 Buffalo Street.

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

*POLICE PERSONNEL:*

**Winkley MOVED to hire Jeffrey Swick to fill a full-time vacancy in the Police Department. Seconded by Bax and carried 5-0.**

**Winkley MOVED to hire James Bissell as Part-time officer, filling the position vacated by Jeffery Swift. Seconded by Conrad and carried 5-0.**

*NOTIFICATION OF LIQUOR LICENSE:*

The Clerk said she is in receipt of correspondence from the Skene Law Firm representing Metz Culinary Management in their intent to apply for a Catering Establishment Liquor License with the New York Liquor Authority for the following establishments: N.U. – Castellani Art Museum; N.U. – Clet Hall; N.U. – Dwyer Ice Arena; N.U. – St. Vincent Hall; N.U. – Gacioch Family Alumni and Admissions Center; N.U. – Gallagher Center.

*RESOLUTION AUTHORIZING SIGNATORY ON BANK ACCOUNTS:*

**Bax MOVED to designate Mark J. Briglio, Deputy Supervisor as signatory to all Town of Lewiston Key Bank Accounts and M & T Bank Accounts. Seconded by Winkley and carried 5-0.**

*STANDARD WORK DAY – BAX:*

**Winkley MOVED to establish the standard work day for Board Member Alfonso M. Bax at 6 hours for the NYS Retirement System. Seconded by Conrad and carried 4-0.** (Bax abstained)

*BOB NABLO'S REPLACEMENT:* Brochey said he and Councilwoman Ceretto interviewed two candidates (Michael Townsend and Daniel Zahno) to fill the position of Water/Waste Water Maintenance II, upon the retirement of Bob Nablo. Both were very qualified.

Attorney Seaman said this particular position is subject to the Collective Bargaining Agreement. He cautioned the Board to take a close look at what that says about filling the position before they make a decision tonight.

**Winkley MOVED to table. Seconded by Conrad and carried 5-0.**

*JOE DAVIS STATE PARK:* Engineer Lannon said the abatement of the demolish phase of the project is complete. Demolition started today and is expected to be completed tomorrow. That will complete the asbestos demolition project of those four buildings at JDSP.

Lannon said he spoke to Ron Peters of the Office of State Parks. He and I have been putting together a process in which to prepare an easement to allow the Town to enter into a State Park to take over the operation and maintenance of the storm sewer. We need to do more field surveying to tie it down. From there, we will be able to prepare a legal description for the easement. In connection with that, State Parks has requested that the Town take a SEQR action for construction of approximately 800 linear feet of 24" storm sewer pipe in order to connect to the existing detention pond at Riverwalk Subdivision to the existing 24" storm sewer within SDSP. We have prepared the short form. It would be our recommendation that the project would have a negative declaration on the construction of the storm sewer. With that, I would then forward that SEQR resolution to State parks along with the easement description and they would then hopefully give us an easement and then we would be able to construct the pipe.

**Winkley MOVED to issue a negative declaration on the Riverwalk Drainage Improvement Project, located at JDSP and Riverwalk Subdivision. Seconded by Ceretto and carried 5-0.**

As a point of information, Bax asked that this SEQR form be sent to the Environmental Commission as a courtesy.

Lannon said they have prepared an estimated construction cost for the installation of the storm sewer. The estimated construction cost is approximately \$200,000.00. Assuming they get the easement, Lannon said the next question would be does the Town want to have the work completed by a private contractor or to be completed by the Highway Department. Bax said he would contact the Highway Supt. to see if this is something his department would be willing to do.

*LEW-PORT WATER ABATEMENT CHARGES RE-VISITED:* At this time, Jeff Ritter asked to address the issue of the Lewiston-Porter CSD Water Abatement Charges. "I think if there is an average amount that's on there and they pay the average amount, I'm sure that would be fine."

**Bax MOVED to reduce the water bill for the Lewiston-Porter CSD for the period of 1/1/2015 – 3/31/2105 to \$2,999.25, based on evidence provide by the school district that the flow did not enter the Town sewer. Seconded by Winkley and carried 5-0.**

*UPPER MOUNTAIN TOWER:*

Attorney Davis was asked to provide an update with regard to the lawsuit.



Davis: On Wednesday, it was argued in Supreme Court. Unfortunately, the Judge dismissed our challenge to that tower on Statute of Limitations grounds. We briefed it extensively. Defendants were represented by three separate law firms. Each of them briefed it extensively. Some of the individual defendants (the homeowners) showed up to show their opposition to the tower. The argument lasted over two hours. Extensive argument was provided on the Statute of Limitations issue. After all that argument, the Judge ruled from the bench without any written decision that the case was time marked as the Town of Lewiston and the individual homeowners waited too long to challenge the tower. It is not clear of the Judge's decision when the time to challenge it started to run. We found out about it in July when the Tower started rising from the ground. Obviously, that is not the date the Judge started running the clock because we filed within four months which is the period of time he implied. He didn't state when that four months started to run. In any event it was sometime prior to July 25<sup>th</sup> when the tower rose from the ground and we issued a stop work order. Now, moving forward, we certainly have appellate rights. If you want to get into the strategy of the appeal process, I would request an execute session.

Bax: Mark, are you expecting a written decision from the Judge?

Davis: No. He ruled from the bench. I have the transcripts of the argument which would be hundreds of pages, or however long 2 ½ hours of oral argument would be... The argument was concluded and he issued his decision and then left the bench. We were arguing that this was not an Article 78 proceeding. We weren't challenging the County's decision to enhance the emergency communication system. In fact, everyone supports that project, countywide. We weren't challenging that decision. We were seeking a declaration from the court that we had a local law. Our local law is valid. Our local law should be enforced. Because it is a declaratory judgment action, it is subject to a 6-year statute of limitations. It is a much longer statute obviously that the Article 78 proceeding, which has one of the shortest statute of limitations, 4-months. That was our first argument that we should apply the longer 6-year statute. We lost on that, but in the alternative, we argued that if you are going to apply a shorter statute, a 4-month statute which he ultimately did, it's still timely because the tower was built on July 25, 2014 and we commenced within the 4-months of that date. However, that was rejected. The other date that was argued by defendants was January of 2013. That is when the County finalized their SEQR process on the project. Those findings specifically stated that the tower location had not been decided and that there would be further review of sight specific issues. My argument in response to that was that there was nothing final decided in January 2013 that could possibly start the running of the 4-months. If that's the date selected then sometime in April of 2013 the statute expired. The next date the defendants argued was December of 2013. The 4-months started running from there because correspondence was sent to the Town from one of the County's consultants requesting information on historic properties in the vicinity of the Upper Mountain Fire Company. The Building Department responded with information of one house up there that was built around the turn of the 20<sup>th</sup> century. They provided that information as there may be something historically significant about that property. But, the notice the Town received at that time said we're only requesting information about historic properties. It is not part of the local zoning process, only comments about historic properties. And, the notice said it was a proposed tower and a proposed telecommunications system. So again, our argument is that you asked for historic information. We provided it but moreover, it was a proposed sight. It was not a finalized sight. To finish up, the next date the defendants argued was May, 2014. That is when sight prep work started. They knocked a building down and they groomed for the new tower and the access road. They cleared and started construction of the access road. They did some utility work so they said as of that date, the sight was finalized and we should have known about it. My response to that was we are seeking enforcement of our Tower Law. Building an access road and demolishing a building does not violate our Towers Law. It may violate other sections of our Town Code. They did all that without permits also. That is not what we are fighting about today. So, again, that could not trigger enforcement of our Towers Law. Unfortunately, the Judge did not specify which of those dates the 4-months started the statute.

Winkley: What is the time table on an appeal?

Davis: An order is being formulated. The defendants are drafting that order. It was their motion to dismiss. It was granted so they are tasked with drafting the order. That will be submitted to me for my review. If I agree to the language it will be submitted to the Judge for his signature. Once he signs it, the signed version will be filed and circulated. Once the signed version is given to me, the 30-days will start to run in which we will have to file a Notice of Appeal.

*COUNTYWIDE GOVERNMENT EFFICIENCY PLAN*

**Bax MOVED the following Resolution Supporting Town/City/Village Participation in Countywide Government Efficiency Plan. Seconded by Conrad and carried 5-0.**

WHEREAS, Governor Andrew Cuomo and the New York Legislature enacted the Property Tax Freeze Credit to provide property tax refunds to homeowners as part of the 2014-2015 State Budget; and

WHEREAS, the new law encourages local governments to generate long-term tax-relief for taxpayers by sharing services, consolidating or merging, and demonstrating and implementing operational efficiencies; and

WHEREAS, in year one of the program, which is 2015 for local governments, homeowners will receive the Freeze Credit if their local government stays within the property tax cap; and

WHEREAS, in year two of the program, which is 2016 for local governments, homeowners will receive the Freeze Credit for property taxes from any taxing jurisdiction in which the homeowner resides that stays within the property tax cap and puts forward a State-approved Government Efficiency Plan demonstrating savings equivalent to one percent of their property tax levies in each of the following three years; and

WHEREAS, while local governments may take a variety of approaches to develop their Government Efficiency Plans, the State has strongly encouraged they convene and facilitate a process to develop and submit county-wide Government Efficiency Plans; and

WHEREAS, Niagara County has offered to coordinate the development of such Government Efficiency Plans as the 'lead agency' on behalf of all other interested municipalities; and

WHEREAS, The Town of Lewiston is interested in intergovernmental cooperation with Niagara County and other municipalities in submitting a county-wide Government Efficiency Plan and desires to memorialize its intention to participate in a coordinated Plan to allow its homeowners to receive the Freeze Credit.

NOW, THEREFORE, BE IT RESOLVED that the Town of Lewiston seeks to ensure that Town homeowners will receive the Freeze Credit as part of this new State law; and

BE IT FURTHER RESOLVED that the Town of Lewiston did not exceed its designated property tax cap for fiscal year 2015 and memorializes that it has no intention of exceeding the cap for fiscal year 2016, which if exceeded would disqualify the Town from participation in the Property Tax Cap Freeze Credit Program; and

BE IT FURTHER RESOLVED that the Lewiston Town Board does hereby express its support for, and participation in a Niagara County-wide Government Efficiency Plan; and

BE IT FURTHER RESOLVED that the Town Board urges the New York State Division of the Budget to approve Niagara County's coordinated Government Efficiency Plan with local governments with the understanding that Town has played an active role in the identification of preexisting and implementation of new shared services, consolidations or merges, and operational efficiencies within the Town of Lewiston for inclusion in the county-wide plan; and

BE IT FURTHER RESOLVED that certified copies of this resolution shall be forwarded to the Niagara County Manager; the Niagara County Budget Director; and the Niagara County Legislature.

**Bax MOVED to adjourn. Seconded by Conrad and carried 5-0. Time: 7:10 PM.**

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk