

PRESENT: Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorneys Seaman & Catalano; Engineer Britton; Building Inspector Masters, WWTP Chief Opt. Ritter; Police Chief Previte; 2 Press; 12 Residents and Clerk Donna Garfinkel

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

AGENDA APPROVAL

Additions: Bax – Niagara County Legislature Resolution - LOOW Site; Geiben – Historic Preservation Commission

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

TWO-MINUTE STATEMENT – RESIDENTS

Glasgow, Paulette – The Circle – On behalf of the Lewiston Taxpayer Accountability and Action Alliance, there are a few items that have not been resolved and they wish the Board to look into them.

Several local entities have been updating their Ethics Code. It has been 40-years since Lewiston has updated theirs. The Alliance would like to see the Board begin an update, with hopes of including the following: 1.) Annual disclosure of business, financial, and investment interests. The recusal and abstention by any paid or unpaid Lewiston employee regarding the discussion, anticipation and zoning on any matter before them. 2.) One of the duties of the Town Clerk is to have custody of all records, books, papers etc... of the Town. So the Alliance wonders why, after a FOIL is submitted to the Clerk, she has to go to the Town Engineer or any other person or employee of the Town, to get Town records that should already be in her custody. The Alliance would appreciate the Board, not only instructing the Town Engineer, but every individual doing work for the Town, to forward, now and in the future, to the Clerk's office all Town records. 3.) Last month the Board approved a \$100 purchase of a tree in memory of late Highway Superintendent Janese, and for some reason the Board failed to do the same for another Town employee who passed away at about the same time. The Alliance would appreciate the Board voting to purchase and plant a tree in memory of Rosalie Kilmer. 4.) Several months ago the Board passed a Resolution regarding the allocation of hydro dollars from the NYPA relicensing. Would the Board please update the public as to when they will possibly be seeing their rebates? 5.) Several months ago the Board passed a resolution regarding the sale of all excess equipment purchased to maintain Joe Davis State Park. The Alliance would appreciate an update as to the status of this sale. 6.) In the spirit of transparency, the Alliance would like to know why a two pond system, recommended by the Planning Board and approved by the Town Board, was changed without informing the Planning Board, the Town Board and the public, to a large 13-foot deep lake, by the Town Engineer. What authority does the Town Engineer have to make this change, which was already approved as a directive of the Town Board?

Further, since no one has asked the question, the Alliance will do it for you. What was the reason and justification for the Town Engineer doing this change? The February 22nd Town Board meeting minutes have the Town Engineer stating "it was a collective decision made by him and his staff". One of his staff, possibly being Mr. Britton may have helped in making that decision; the Alliance would like to know what the justification for the change was.

The Alliance recently asked the following of Robert Freeman – Executive Director of Open Government, "Does the public have the right to all paperwork being discussed at public meetings? Further, does this information have to be made available to the public, either at the meeting or prior to the meeting, so the public understands what is being discussed and voted on?" Mr. Freeman responded, Section 103(e), Open Meeting Law, states, "An agency's records must be made available to the public pursuant to FOIL, as well as any proposed resolution laws, rules, regulations, policies, etc... that is scheduled to be subject of discussion by the public body during that meeting. This information shall be made available upon request, therefore prior to and at the meeting during which the information will be discussed. Further, if the agency maintains a web-site, which is regularly updated and uses high-speed internet, such information shall be posted on that web-site prior to the meeting".

Supervisor informed Glasgow she is past her allotted time.

Lyle, Steve - Lower River Road – (continued Glasgow’s comments) In the spirit of transparency the Alliance is requesting that prior to all meetings all information to be discussed in any Board, Committee or Commission be posted on the Town web-site, two or three days prior to the meeting.

Warren, Rosemary – Griffon Street – Warren thanks the Highway workers for cleaning up the corner in Sanborn. They raked back the dirt and stoned the plows leave behind when they turn. Warren always says a prayer for these employees for their safety.

In the February 21st Sentinel in the article entitled “What about that ice rink”, Warren says it should have been entitled “What about the Village of Lewiston ice rink”. Greenway dollars paid for it. When heard it was portable, Warren thought it would rotate above the hill, and be flooded by different fire companies. It would be a nice outdoor recreation activity for all areas to use.

Dashineau, Parks and Recreation Director said in the article “we own the ice rink; we rent quite a bit of it”. Years ago Warren questioned parts of this budget, because one of the important parts he rents is the compressor. Power and water have been brought to the spot.

Warren knows there are not the businesses above the hill that profit like the Village does, but in future budgets the Village should have a line-item that will help pay the Town for the rental, utilities and employees.

Warren is very disappointed that residents are only given two-minutes once a month to speak, that is 24-minutes in one year. At the County and Niagara Wheatfield School Board meetings, residents can speak twice.

TWO-MINUTE STATEMENT – DEPARTMENT HEADS

Previte – Numbers for last 30-days: 193 – traffic tickets; 19 – accidents; 22 – arrests and 897 total calls for service.

On June 2nd there will be a Torch Run that will take place in the Town and Village.

The Police Dept. is working with Lewiston-Porter School and Niagara University on an emergency evacuation plan. Previte will update the Board.

Masters – The Town received a letter and SEQRA from the Village regarding a property in the Village. The letter states any interested or involved agency may submit objections in writing within 30-days. The Town does not have a designated person to take this document, review it and forward the information they are looking for. Masters suggests this be forwarded to the Environmental Commission for review and forward their comments to the Board or Village.

Seaman said the Village wants to declare themselves as Lead Agency to undertake the SEQRA process. That is what the Town is asking to respond to. Having the Environmental Commission or Masters make the review would be fine. Normally the Town wouldn’t object to this because it is a development in the Village, and the Village normally would take the Lead Status. In this scenario Seaman is not sure why the Town would want to be Lead Agency. It will not hurt to have the forms reviewed and let the Town’s input be heard.

Geiben and Masters have discussed the possible development on 8th Street. With this development being on 8th Street in the Village, the Town and Village may want to work collectively on a solution.

Bax MOVED to refer this to the Environmental Commission, Seconded by Geiben and Carried 5 – 0.

Geiben said at the Joint Town Village meeting there was discussion about drainage around Kiwanis Park and how it is partially coming from this project and the one proposed on Fairchild Place. Engineer Britton along with Deputy Highway Superintendent Cosgrove will be working on this. This is part of all the projects taking place in the Village of Lewiston.

Broderick said if it comes to opening up 8th Street to Hickory Lane, this project will be a big undertaking.

Garfinkel – The Board received a letter from the Clerk requesting an action involving the receipt of Modern documentation. On August 21, 2014, then Town Attorney Mark Davis forwarded a letter to Richard Palumbo, requesting “Modern provide all information required by the HCA and local law for the time period 2009 through the end of the second quarter of 2014.”

Since this letter, the Clerk’s office has received every piece of correspondence that is exchanged between Modern Landfill and the New York State Department of Environmental Conservation, being paper boxes full on documents that stands over 5 feet tall.

It has been Modern Landfill’s practice, for years, to submit quarterly and annual reports, totaling 5 documents a year. It has been Town past practice to keep the prior and current year reports, due to lack of space.

At this time Garfinkel is requesting the Town Board allow Modern Landfill to revert back to the quarterly and annual report submission.

Bax MOVED authorize the Supervisor to advise Modern Landfill that the Town of Lewiston wishes to revert back to receiving the Quarterly and Annual Reports for Modern Landfill and Modern Recycling, along with any documentation the Town Finance Director may need in regards to the budget, Seconded by Ceretto and Carried 5 – 0.

Garfinkel spoke of the closing of the east entrance to the Town Hall and have it designated as an employee entrance only. This has been discussed with the Fire Inspector; he states as long as it remains an exit, it is feasible. This helps in keeping track of who is the building and addresses a safety issue for the employees. Board members agree.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve Town & Village Joint Meeting – 2/22/2016; Public Hearing – 2/22/2016; RTBM – 2/22/2016 and Town Board Work Session – 3/14/2016, Seconded by Bax and Carried 5 – 0.

AUDIT PAYMENT

Bax MOVED to approve the Regular Abstract of claims numbered 718 – 874, and recommended payment in the amount of \$659,149.40, plus a Post Audit of \$4,575.34, Seconded by Geiben and Carried 5 – 0.

Geiben requested a copy of the abstract.

OLD BUSINESS

Commission / Committee / Board Appointments

The Historical Preservation Commission should be made up of, if available, 2 architects, Town Historian.

Morreale said James Ditzel is no longer on the Commission and would like to appoint Brock Davy.

Morreale MOVED to appoint Brock Davy as member of the Historical Preservation Commission, Seconded by Bax and Carried 5 – 0.

It was questioned if John Sharpe should be removed as a member since he is also the ex-officio. Seaman said he will research this.

Storage – Recreation Department

Geiben spoke with Cosgrove and there is a logical place on the property to store vehicles.

Geiben requests Recreation, Police and Highway work together, with Rotella on this.

Bax wants to be careful to quarantine each department's supplies from the other. Previte is in favor of this. Where the cars are now, there is a safety issue. Previte also recalls an addition to the Town Hall for the Police Department. That would work also.

Previte is asked to contact Cosgrove and Dashineau to move forward.

Town Clerk / Tax Collector and Asst. Tax Collector Salary

At the Work Session of March 14th, Town Clerk Garfinkel requested from the Town Board to reinstate the salary that was discussed, approved and published in October of 2015.

Seaman researched this. The proposal is to increase the salary of the Town Clerk. This is not normally done during the year, after the budget hearing. In this case, the notice for the hearing that was publicized last year had a higher salary. Legally the Board is not allowed to go above what was in the notice for the public hearing on the budget.

In regards to retroactive pay, there are cases that basically state – unless a person has a legal right to the pay, or its in settlement of a dispute as to whether this person was entitled to that pay, it is looked at as an unconstitutional gift. So retroactive pay, except for these two situations, it is not allowed.

Geiben MOVED to increase the Town Clerk's salary to level that was publicized originally in the notice of Public Hearing, starting immediately, not retroactive, Seconded by Bax for discussion.

Blazick asked the Board what budget line this will be coming from. Geiben said the Junior Accountant. Blazick said this fund was to pay for the overlap of Barb Cich and the new Confidential Secretary. Geiben believes the amount in this line should cover both situations. It is believed to have approximately \$30,000 in the budget line.

Broderick asked if there may be a better budget line. Blazick said there is contingency dollars in the A-Fund. Blazick assumes the amount of the salary as Registrar, will stay the same, this is just the Town Clerk / Tax Collector? Geiben and Broderick said yes.

Carried 5 – 0.

Broderick said the Town Clerk / Tax Collector salary will be \$58,672, with the Registrar salary at \$2,300.

In regards to the Assistant Tax Collector Salary, Geiben said no action will be taken; this is part of the new Union that is being created. Seaman said that is the advice of Town Labor Negotiation Council.

NEW BUSINESS

Special Olympics Law Enforcement Torch Run is scheduled for June 2, 2016. All information has been forwarded to the Police Department.

SUPERVISOR BRODERICK

NYPA Host Community Committee Alternate – Broderick has a conflict with the April meeting and would like to appoint an alternate.

Broderick MOVED to appoint Councilman Bill Geiben as the alternate to the NYPA Host Community Committee, Seconded by Bax and Carried 5 – 0.

LEGAL

The Town received the DOT Shared Services Agreement. Seaman said this is a standard agreement that the DOT circulates asking municipalities to sign.

Bax MOVED to authorize the Supervisor to sign the NYS DOT Shared Services Agreement, Seconded by Geiben and Carried 5 – 0.

Fire Protection Contracts

Seaman, Broderick and representatives from the four Fire Companies; Lewiston #1, Lewiston #2, Upper Mountain and Sanborn met to discuss contracts. A public hearing needs to be scheduled and held for the Fire Contracts.

A 5-year contract has been agreed upon. The tentative agreement is: 2016 - \$2,000 increase to each company; following four years - 3½ % increase per year.

Draft agreements have been prepared. Seaman suggests the Board have a proposed agreement in place for Ransomville Fire Company and Pekin. One Public Hearing would be best.

Bax MOVED to schedule a Public Hearing for all Town Fire Company Contracts to be held on April 25, 2016 at 6:00 pm, Seconded by Geiben and Carried 5 – 0.

Resolution – Escarpment Committee / Resolution – River Bank Committee

Catalano prepared and presented a resolution to create the Escarpment Committee, which the Town Board would create to deal with the potential creation of an escarpment district to deal with issues residents are experiencing on the escarpment. The resolution reads as follows:

SECTION 1. PURPOSE AND INTENT.

The Town Board of the Town of Lewiston shall create the Escarpment Committee, an Ad Hoc Committee serving at the pleasure of the Town Board, it is hereby established that this Committee shall consist of five to seven members, none of whom shall hold any other public office in the Town of Lewiston or be members of the Town Board. A majority of the members of the committee must have a residence on the Niagara Escarpment. The Chairperson will be selected by the Escarpment Committee from among the resident members. The Chairman of the Environmental Committee shall sit as the Liaison between the Escarpment Committee and the Environmental Committee. The Town Board has the power to remove any Escarpment Committee member for failure to attend three-quarters of the scheduled meetings.

SECTION 2. AUTHORITY.

The Escarpment Committee shall have the limited power and authority to make such investigations, maps and reports and recommendations relating to the creation of the Town of Lewiston Law regarding the possible creation of an Escarpment District. The Escarpment Committee shall have the limited power to only act on this matter.

SECTION 3. APPLICATION.

This Committee shall apply to any limited area of the possible creation of an Escarpment District.

SECTION 4. DURATION.

The Committee shall exist until an Escarpment District is created or it is determined that such a law is unnecessary or impractical. Additionally, each Committee Member shall serve for a term of one year which is renewable at the pleasure of the Town Board.

SECTION 5. SCOPE.

During the effective period of this Committee the Town Board shall accept, process, review, any recommendations and/or grant approval for the creation of an Escarpment District. All reports and recommendations made by the Escarpment Committee shall be made to the Town Board and Environmental Committee who will review said recommendations.

Geiben MOVED for approval, Seconded by Bax for discussion.

Geiben reviewed what this will do. The intent of the resolution is there will be an advisory committee, temporarily. If and when the Town decides to have an escarpment district, the district would have some autonomy of its own and this committee would no longer be necessary. Catalano said yes.

In response to the question of what the committee would be doing, Catalano said they will review reports and recommendations that are received. A majority of the members are required to be from the escarpment area. They are the most affected.

The Town of Cambria created a law and was reviewed by Bax, Catalano and the Environmental Commission, but this law is totally unworkable for Lewiston's situation. It is helpful as an example to create Lewiston's own committee.

Motion removed

Geiben would like to forward this to the Environmental Commission for their review.

Bax MOVED to forward the Escarpment Committee Resolution and the River Bank Committee Resolution to the Environmental Commission for a one month review, Seconded by Geiben and Carried 5 – 0.

Engineering – Muck Land Pump

The Town received three proposals for repair of the pump; Moley Magnetics - \$19,789; Corrosion Products and Equipment - \$21,012 (excluding shipping and freight cost); Fluid Kinetics - \$33,000. Britton said Moley Magnetics bid is from May, 2015 and they will hold that price.

The scope of the work requires there to be a joint effort between the Town and chosen company. Once the pump is repaired the Town will need to bring the motor down to allow for a test to be performed.

Moley Magnetics bid includes the labor to help the Town with the lining and doing the start-up.

Broderick MOVED to approve the repair bid of the Muck Land Pump to Moley Magnetics at the amount of \$19,789, Seconded by Bax and Carried 5 – 0.

To answer the question regarding a warranty, Britton said there typically is. Broderick will be contacting them in the morning and will ask.

Finance

Property / Liability Insurance Renewal

The Town will continue with the company from last year. Blazick was hoping to present a draft of the policy to the Board but it has not been received. It is the Board's hope to "shop" for insurance next year, but this year will be a renewal.

The problem lies in the policy will be received prior to the next Board meeting. Blazick requests the Board authorize Broderick to sign the agreement, and allow for a post audit check to be cut.

Blazick budgeted for a 5% increase, but expects the renewal to be 3%, but in the same token things have been added that have been missed in the past.

Geiben MOVED to authorize the Supervisor to sign the documents to renew the insurance and issue a post audit check to cover the cost, up to the amount in the budget, Seconded by Morreale and Carried 5 – 0.

Geiben asked the Supervisor to have his clerk forward a letter to those that showed interest in providing a policy for the Town, that it will be next year.

COUNCILMAN BAX

The Niagara County Legislature is in support of the remediation of the LOOW Site. Bax read the "Resolve" section of their Resolution:

RESOLVED THAT THE LEGISLATOR joins with the Town of Lewiston and their Environmental Commission in giving total support for the preferred alternative for the interim waste containment structure, IWCS Operable Unit for the Niagara Falls Storage Site, NFSS, located in Lewiston, NY which is alternative for excavation partials treatment and off site of the entire contents of the IWCS.

Bax thanks the Legislature for joining with the Town.

With respect to the residents comment on Town Board meeting documents being available to residents prior to the meeting, Bax asked if there is anything that can be done to put them on the site.

Garfinkel said if this is what the Board wishes. Documents can be attached to the Agenda.

Seaman said the open meetings law referenced does not have to do with every document the Board receives. It deals with documents that will be matters of this open discussion in the meeting. The Board determines what is practicable, so if there is a local law or resolution etc... this can be made available.

Geiben said it would be better for the smooth flow of government that residents who will be speaking, submit their statements in writing a week ahead, this will allow the Board to address them in a timely manner.

Broderick is working with Seaman to increase the resident's statement time.

Conrad questioned who would be responsible for scouring the packet to determine what can be put on the web-site. Broderick said between him and the attorney this can be done.

Bax MOVED to request the Attorney draft a procedure for the Town Board to follow for posting of meeting documents, Seconded by Geiben and Carried 5 – 0.

COUNCILWOMEN CERETTO - Nothing to report.

COUNCILMAN GEIBEN

Cable Commission update

Cable Commission Chairman Abbondanza is asking for a bit of leeway so he can continue to work with Time Warner to outline the procedure. Abbondanza is searching for individuals with technical experience. This will be very helpful.

Drainage – Kiwanis Park

The Village has asked the Town to, in a timely fashion; look at drainage near Kiwanis Park and Chicora Drive. Geiben has spoken to Cosgrove, Britton and Village DPW Superintendent Terry Brolinski. They will work together to resolve this. There is nothing major that needs to be done, not expensive, but ditches need to be cleaned.

Broderick has discussed the up-keep of the bike path with Cosgrove. He will be cleaning up trees and branches to make the path accessible.

Geiben encourages Cosgrove and Bax to meet and work on a 5-year plan for the highway dept.

COUNCILMAN MORREALE

Morreale and Geiben attended a conference sponsored by Drescher & Malecki. LLP, Town auditor, for newly elected officials. It was very informative and there is a lot to learn.

The two projects presented to the Planning Board for their March meeting had been tabled.

Geiben requested the Cable Commission be added to the Upcoming Boards / Commission Meetings list as "to be scheduled".

Broderick MOVED to adjourn the meeting, Seconded by Bax and Carried 5 – 0. (7:04 pm)

Respectfully Transcribed and Submitted by:

Donna R. Garfinkel, RMC
Town Clerk