

TOWN BOARD REGULAR MEETING August 23, 2022 - 6:00 pm

PUBLIC HEARING – Wilco Auto Care, LLC – Ward Road - Special Use Permit

PUBLIC HEARING - LMK Realty Assoc. – Northridge Drive – Revised Detailed Site Plan

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, R. Morreale and J. Myers; Deputy Sup. W. Conrad, Atty. A. Bax; Highway Supt. Trane; Police Officer B. Hall; Bldg. Insp. T. Masters; Asst. Bldg. Insp. Zimmerman; Water Foreman Zahno; Finance Director J. Agnello; Eng. R. Lannon; Senior Center Director M. Olick; WWTP Chief Opt. J. Ritter (ZOOM); Recreation Director C. Cvijetinovic (ZOOM); 17 residents, 1 Press and Clerk D. Garfinkel

Supervisor opened the meeting with the Pledge of Allegiance and a moment of Silent Reflection.

PUBLIC HEARING – Wilco Auto Care, LLC – Ward Road - Special Use Permit

Clerk read the Public Hearing Notice into the record.

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Town Board, on the 22nd day of August, 2022, commencing at 6:00 p.m., at the Town Hall, 1375 Ridge Rd, Lewiston, NY, to hear and consider the following property:

OWNER/APPLICANT: Wilco Auto

PROPERTY LOCATION: 5882 Ward Road

Sanborn, Niagara County, New York

TO CONSIDER APPLICATION FOR A Special Use Permit and Site Plan Approval for an Auto Repair Shop.

All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing.

The Applications are available for review at the Town of Lewiston Building Inspector's office, during normal business hours.

Supervisor invited residents to speak.

Filer, Timothy – Niagara Street – Filer lives kitty-corner from the building. Past owner, Paul, always made sure, that whoever rented it, kept it nice and neat. Since Wilco has taken over the property, it has been a mess. There are several unregistered vehicles, tires around.

Filer does not want the expansion. He can't provide enough parking for his customers, to not park on Niagara Street. This has been going on for several years.

With school being around the corner, the intersection of Buffalo Street and Niagara Street will become very hazardous. It turns into one lane traffic.

There are many issues that need to be addressed, permanently not just when a complaint is made.

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The noise from the industrial air-compressor is very loud. Weather is cooling down; windows are open and we hear this all night.

Murnyack, John – Ridge Road – Is this Special Use Permit for something that was permitted in the area before?

Broderick said it is allowed with a Special Use Permit.

Murnyack suggested the Board go back and look at some of the areas for Special Use Permits can be expanded and allowed where people want them.

Highway Superintendent Trane said there has been a concern with this corner when plows need to get through.

Broderick, Assessor and the Building Dept. have received concerns. The following are their issues:

1. Building Dept. and Assessor recommend the business be one tax map parcel. Property lines are so tight on that road and between buildings. This would allow better use of the property and prevent the sale of the non-conforming lots in the future which can't be made to comply individually.
2. Building Dept. recommends a parking layout be submitted to prevent the constant complaints of encroachment at Niagara Street and Ward Road. It is very hard to see south on Ward when cars are parked so close to the road and would help with emergency services.
3. Sewer Dept. needs a sewer compliance inspection to verify that sewer and drainage comply with the new Storm Water and Sewer Regs.
4. If/when a Special Use Permit is approved, a Building Permit and Engineered Drawings will be required to convert a Cold Lumber Storage Building to Automotive Repair Use (S-1)

Broderick said the Board and the Departments would like to see these four issues resolved before any approval is given, and taking into consideration Mr. Filer's complaints.

Geiben MOVED to close the Public Hearing, Seconded by Morreale and Carried 5 – 0 (6:11 pm)

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Town Board, on the 22nd day of August, 2022, commencing at 6:00 p.m., at the Town Hall, 1375 Ridge Rd, Lewiston, NY, to hear and consider the following property:

OWNER/APPLICANT: LMK Realty

PROPERTY LOCATION: North Ridge Drive

Lewiston, Niagara County, New York

TO CONSIDER APPLICATION FOR A Planned Unit Development expansion for a 10-unit apartment complex on North Ridge Drive, adjacent to the existing Planned Unit Development at that location.

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All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing.

Murnyack, John – Ridge Road The people have been here before for this Massaro development. All the neighbors were against him being allowed to expand. The Board has made a zoning change, that allowed him to change from single family to a PUD.

It is an unfortunate situation for residents, who are against it. The Board is going to continue to move this forward and let him build his ten units. What bothers the Murnyack's is that none of the neighbors want it; the Board won't do anything to help to accommodate him on his property. This is a situation that should be investigated further, on how the Board manipulates who they want, to do what, in this town.

Murnyack would like the same amount of consideration to the other businesses in the Town.

Murnyack, Matthew – Ridge Road - Murnyack said he spent all day knocking on doors and making phone calls to the neighbors (11). Not one said they were okay with Massaro moving forward.

This building is going to be closer to Ridge Rd and the traffic is already too much. Murnyack has walked out to get his mail and has almost gotten hit by a car.

It must come down to who you know. Is it money? Is it tax money? Murnyack has been running around for 2 years, and is told he can't do anything on his property on Rt. 31, because there are neighbors. Well, Murnyack is a neighbor to Massaro and does not want this. It moves forward anyways. Murnyack asks the Town Board to acknowledge it's the money and who you know.

Marra, Tom – Ridge Road – Marra's biggest concern are the trees. There is a beautiful greenspace to look at. There will be an increase in traffic. Marra has been close to being hit when trying to back out the driveway. When the trucks go by the whole house shakes.

Whitt, David – Ridge Road – Whitt has been fighting this fight for 25 years. There is no plan for the traffic. This needs to be addressed. He too, almost got hit getting his mail.

Gibbs, Roberta – Ridge Road – Where cars turn on to Northridge, where Massaro has that piece of property, that he will eventually build on, cars stop to make a left-hand turn, then the cars behind, instead of waiting, go on the soft shoulder. That is not 1 or 2, you have 5 – 6 cars. Cars are speeding on Ridge Road.

Geiben MOVED to close the Public Hearing, Seconded by Jacoby and Carried 5 – 0. (6:22 pm)

Broderick said no action will be taken on the LMK property.

AGENDA APPROVAL

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Additions: Broderick – Change-order Lewiston Lower River Rd; an addition to Lewiston Fire Co. #2 and introduce a Local Law; Morreale – approval to replace LED lights and go out to bid for a fence in the Essex Sub; Jacoby – remove Wilco and LMK approvals and Police hire.

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

Boy Scout Ryan Edward Davis Cemetery Project Appreciation Award – Troop 855

Town Historian Margery Maggard gave a brief recap on the cleaning of the Ways, Evans & Scovell Cemetery located off of Ridge Road.

In October of 2018 the clean-up of the cemetery was an Eagle Scout Project for Fred Guard III. Davis will clean it up again.

Both boys had a formidable task due to the weed growth on the pathway access and within the walls of the cemetery. Poison ivy growth is abundant and a major concern.

Troop 855 would like to continue with a clean-up of the cemetery as a Community Service Project, two times a year.

Sandra Cook – Committee Chair for the Troop is requesting the Town’s assistance in spraying the pathway and the area around the cemetery walls with a commercial herbicidal product regularly. That will ensure the safety of the Scouts while doing the clean-up.

Broderick said the Town is definitely willing to support the Scouts.

Broderick thanked Ryan for what he has done and commends him on his work.

RESIDENTS STATEMENTS

Murnyack, John – Ridge Road – It’s Murnyack’s understanding that Dave Trane is retiring. Trane has been a blessing to this Town. Goes out of his way to help residents.

Murnyack spoke of the Board adopting a Code in 2012. Different situations have arisen in the Town and the Board changed the Code.

Murnyack’s son’s property on Saunders Settlement Rd has a portion of Gill Creek running through it. There’s a four-foot pipe to handle the flow, but it can’t because the ditches are overgrown.

Mr. Masters said he can’t buy that the four-foot pipe is adequate, so Murnyack’s son bought a five-foot pipe. Common sense would say “you did a good job, its bigger it can handle the flow”.

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But no, Code says you have to have an engineer approve that. The Town has major drainage issues elsewhere in the Town too.

The Town has an engineer, he should be the one saying if it's adequate or not.

Murnyack encourages all the Board members to travel up and see what Gill Creek looks like.

Townsend, Mike – Escarpment Drive – Townsend commends the Highway Dept. on the great job of paving the bike path. Looks nice.

Purchase of the Boy Scout Camp is a great idea. It's a beautiful piece of property for all to enjoy.

DEPARTMENT HEAD STATEMENTS

Town Clerk Garfinkel

NYS Dept. Of Transportation - At the last Town Board meeting the Board directed Garfinkel to send a letter to NYS DOT requesting a traffic safety study be conducted at Ridge Road (Route 104) and Dickersonville Road.

The Town received a response from the State, saying they have started the investigation and will advise us of their findings.

Town Hall Main Space Renovation Bid – Bid is to remove the storage room located in the middle of the main entrance area (Town Clerk's file room).

This removal will allow the Town Clerk, Tax Clerk and Water Clerk to all be in one area, making it easier to greet and take care of residents.

The office area that holds the Water Dept. will have some construction, and be the new file room.

Garfinkel reached out to six (6) general contractors. The first letter sent, ask if they had questions to please reach out to Ed Zimmerman for questions, and no one did.

One contractor came in to look at the job, and submitted a bid.

On August 9th, Garfinkel reached out to those that did not respond asking them to respond. If they are not interested, which is fine, just let us know.

Bax has been working with Garfinkel on this situation of no response. Bax said Garfinkel has done her due diligent to solicit contractors to no avail.

Bax believes based on what Garfinkel has on the record, and a \$35,000 threshold, the Board is safe to move forward.

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Geiben MOVED to accept the bid from Swogier Construction Inc. with discussion, Seconded by Jacoby

Geiben noted the notes state this will take place during evening hours and weekends. Geiben asked Garfinkel if the bidder agreed to that, and she said yes.

Funds to come from A-Fund Fund Balance.

Masters said Swogier Construction has worked for the Town prior and are a reputable company.

Carried 5 – 0.

Jacoby MOVED to transfer \$30,000 from the A-Fund Fund Balance into Building Equipment – A00-1620-0200-000, Seconded by Geiben and Carried 5 – 0.

Garfinkel thanked the Board for this much needed improvement to Town Hall.

Highway Superintendent Trane

Trane requests permission to purchase a Bobcat Compact Track Loader for \$76,131.39. Trane has spoken with Agnello and money is available.

Bax asked if this is a State Bid, Trane said yes.

Geiben asked if this is part of the Highway budget, Trane said the money is available.

Geiben MOVED to approve the purchase of a Bobcat Compact Track Loader for \$76,131.19, Seconded by Morreale and Carried 5 – 0.

Broderick asked Agnello if a budget transfer needs to be made for this. Agnello said no, it is currently available in Highways budget.

Senior Center Coordinator Olick – Seasonal Laborer

Olick would like to hire William Krell for a year-round position, not just seasonal. Krell goes above and beyond all that he is asked to do. Olick knows that he will take good care of the building.

Broderick has discussed with other Board members and a few issues need to be addressed. There is a budget concern and Civil Service.

APPROVAL OF MEETING MINUTES Town Board – June 27, 2022

Clerk distributed the incorrect meeting minutes, should have been July 25, 2022. July's will be voted on at the Work Session.

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AUDIT PAYMENT

Geiben MOVED to approve the Regular Abstract of Claims numbered 22-02058 thru 22-02182 and recommend payment in the amount \$435,892.36, plus a Post-Audit of \$19,884.66 and Regular Abstract of Claims numbered 22-02183 thru 22-02343 and recommend payment in the amount of \$405,946.03, plus a Post-Audit of \$11,140.50, Seconded by Morreale and Carried 5 – 0.

PENDING / OLD BUSINESS

Award Bid – Court Offices Grant – This was tabled at the July meeting.

Broderick has been working with Court, and they are having a hard time getting a third bid. Going to give it one more try, if not it will be awarded at the September Work Session.

NEW BUSINESS

Race Management Solutions Inc. – Notification Kiwanis Peach Festival 5K Run

Race Management has requested to rent the pavilion at Kiwanis Park. They will have sign up and sign out at the park, with the run taking place on the Bike Path.

Geiben MOVED to approve and waive the \$25 fee, Seconded by Jacoby and Carried 5 – 0.

Race Management Solutions Inc. – Confirm date of 2023 Marathon

Race Management requests approval of the Marathon on April 28, 2023. Information to be sent to Police Dept.

Morreale MOVED to approve the date of April 28, 2023 for the 2023 Niagara Falls USA Marathon, Seconded by Geiben and Carried 5 – 0.

SUPERVISOR BRODERICK

Addition to Lewiston Fire Company No. 2 Inc.

Broderick MOVED to appoint Joshua Waney – Saunders Settlement Road, to the Lewiston Fire Company No. 2 roster, Seconded by Geiben and Carried 5 – 0.

Legal

Saturn Power/Kilmer Solar Host Community Agreement

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Bax forwarded a Host Community Agreement with Saturn Power / Kilmer Solare, LLC and the Town to the Board.

Bax requests Board approval of the Agreement. The original will be given to Saturn Power for their signature and they can get started with the project.

Morreale MOVED to approve the Host Community Agreement with Saturn Power / Kilmer Solare, LLC and the Town, Seconded by Geiben and Carried 5 – 0.

Morreale MOVED to authorize the Supervisor to sign the Host Community Agreement with Saturn Power / Kilmer Solare, LLC and the Town, Seconded by Geiben and Carried 5 – 0.

Bax said there is an issue with the Niagara County IDA. Bax requests the Board authorize the Supervisor to send a letter of support of the project.

Jacoby MOVED to authorize the Supervisor to send a letter of support to the Niagara County IDA, Seconded by Myers and Carried 5 – 0.

Niagara University Solar PILOT Agreement

Bax said new terms were negotiated this afternoon. The payments were reconstructed to a \$3,000/kilowatt hour and an upfront payment.

Jacoby MOVED to approve the Payment in Lieu of Taxes Agreement between Town of Lewiston and Niagara Road Solar LLC, Seconded by Morreale and Carried 5 – 0

Jacoby MOVED to authorize the Supervisor to sign such Agreement, Seconded by Myers and Carried 5 – 0.

Broderick commended Bax on the great job negotiating these Agreements.

Bax spoke of a Local Law that was forwarded to the Board from Attorney Tom Seaman regarding an amendment to the zoning for property on Northridge Drive – LMK Realty Associates.

This needs to be presented by a Board member then a Public Hearing set.

Broderick MOVED to hold a Public Hearing on September 26, 2022, at 6 pm, for a Local Law to amend the zoning for property on Northridge Drive – LMK Realty Associates, Seconded by Geiben and Carried 5 – 0.

Engineering

Dedication – Pletcher & Creek Roads Sewer Extension

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Lannon asks the Board to consider dedication of Pletcher & Creek Roads Sewer Extension. This extension starts at Mr. Bradt's property, near the entrance to the High School, heads south down Creek Rd, then make a left turn on Pletcher Road. This is approximately 1,145 feet of sewer.

Geiben MOVED to accept the dedication of the Pletcher & Creek Roads Sewer Extension, Seconded by Morreale and Carried 5 – 0.

Finance

Budget Revisions - Agnello requests the following 2021 Budget transfers to cover YE 2021 adjusting journal entry to account for a new method of accruing payroll per the auditors.

Transfer \$48,804.00 from Recreation Special Events Contractual - A00-7310-0401-0000 and \$1,333.00 from Recreation Concessions Contractual - A00-7310-0402-0000, for a total of \$50,137.00 to Recreation Ice Rink Personnel - A00-7310-0100-4403.

Transfer \$1,221.00 from Unemployment Insurance - A00-9050-0800-0000, to Capital Projects - A00-9950-0905-0000, to cover YE 2021 H61 Transfer.

Transfer \$17,741.00 from Engineering Firm Contractual - B00-1440-0440-0000, \$12,776.00 from B Fund Contingency - B00-1990-0400-0000, \$15,597.00 from Street Lighting Electric - B00-5182-0400-3500 and \$6,602.00 from Parks Contractual - B00-7110-0400-0000, for a total of \$52,716.00 to Police Personnel - B00-3120-0100-0000.

Transfer \$75,346.00 from Sales Tax - DB0-1000-1120-0000, to Highway General Repairs Personnel - DB0-5110-0100-0000.

Transfer \$42,820.00 from Medical Insurance - SS1-9060-0800-0000 to Sewer Admin Personnel - SS1-8110-0100-0000.

Agnello requests the following 2022 Budget transfers:

Transfer \$286.00 from Recreation Concessions Contractual - A00-7310-0402-0000, to Recreation Concessions Personnel - A00-7310-0100-4402, to cover payroll expenses.

Transfer \$41.00 from Recreation Concessions Contractual - A00-7310-0402-0000 to Recreation Ice Rink Contractual - A00-7310-0403-4403, to cover square credit card service fees.

Geiben MOVED approval of the above 2021 & 2022 Budget Transfers, as presented, Seconded by Morreale and Carried 5 – 0.

Agnello has started the 2023 Budget process with Department Heads.

The Town went out to bond for the water project which needed to go through Mooney's for a rating and the Town has maintained its Aa3 Financial Rating.

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Broderick said A-1 Landscaping is in the process of putting the pavilion at the Lower River Road Park. There will be a concrete walkway running North / South over to the drive. It was determined this will block flow of the water. It has been changed to an East / West design. This will require more concrete and a change order.

Broderick MOVED to approve a change-order in the amount of \$23,075 for the installation of additional sidewalk from the pavilion to the handicap parking, approximately 230 linear feet, Seconded by Geiben and Carried 5 – 0.

COUNCILMAN GEIBEN

Senior Center Van Driver Resignation

Geiben read a letter of resignation from Randolph Gorzka, as Senior Van Driver for the Senior Center. He will be missed; he is a nice gentleman and brought a lot to the Center.

Geiben MOVED to accept, with regret, the resignation from Randolph Gorzka, Seconded by Morreale and Carried 5 – 0.

Senior Center Van Driver Job Posting

Geiben MOVED to post the Van Drive's position, Seconded by Morreale and Carried 5 – 0.

COUNCILMAN JACOBY

The Wilco Auto Care, LLC – Special Use Permit and LMK Realty Assoc. – Revised Site Plan approval has been tabled.

Jacoby would like to assure residents that their comments regarding Wilco Auto Care's application will be taken into consideration when making the decision.

Jacoby requests the following changes being made in the Police Dept.

Jacoby MOVED to move Belin, Joshua and Paul, Nicholas from Part-Time to Full-Time, effective August 22, 2022, at the salary in the Union Contract, Seconded by Geiben and Carried 5 – 0.

Jacoby MOVED to hire Bratek, Rebecca and Penzotti, John as Part-time Officers, effective August 22, 2022, at the salary in the Union Contract, Seconded by Geiben and Carried 5 – 0.

COUNCILMAN MORREALE

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Sewer refund – O’Leary – Autumn Lane

Morreale MOVED to approve a sewer credit for O’Leary – 4370 Autumn Lane in the amount of \$122.70, Seconded by Geiben and Carrie 5 – 0.

Building Dept. Clerk

Building Inspector Masters requests the Board hire Lisa Wisniewski as Building Dept. Clerk.

Morreale MOVED to hire Lisa Wisniewski, starting date of September 19, 2022, with salary being according to Union Contract, Seconded by Jacoby and Carried 5 – 0.

Highway Superintendent Trane

Morreale read Superintendent Trane’s retirement letter.

Morreale MOVED to accept, with regret, the resignation of David Trane, effective August 22, 2022, Seconded by Geiben

Broderick and Trane ran for their respective positions the same year, and have had a strong relationship since.

All Board members thank Trane for his service.

Jacoby said he has received many, many, many positive compliments from residents.

Carried 5 – 0.

Trane recommends Mitchell Zahno to finish his term as the Town Highway Superintendent effective August 22, 2022.

Morreale MOVED to appoint Mitchell Zahno to finish Trane’s term as Town Highway Superintendent, effective August 22, 2022, Seconded by Jacoby and Carried 5 – 0.

Morreale said there are 83 decorative lights that are not yet LED. National Grid quoted \$23,219.19.

The Town will pay up front, but because the Town became a clean energy community, there is a \$5,000 NYSERTA Grant that will be used. Once installed National Grid will reimburse the Town \$4,100. Making it approximately \$15,000 to replace the lights.

Broderick said the remaining dollars will come out of H-98 – NYPA Fund.

Morreale MOVED to move forward with the replacement of 83 decorative lights that are not LED, with above-mentioned payments, Seconded by Geiben and Carried 5 – 0.

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Essex Development has a street that comes out onto Bronson Drive. A fence was placed. On Town property, on the North side, but one is needed on the South side. Morreale would like to go out to bid for a fence on the South side.

Morreale MOVED to go out for bids for a fence to be installed on the South side, Seconded by Jacoby and Carried 5 – 0.

COUNCILMAN MYERS Nothing to report

RESIDENTS STATEMENTS – No one wished to speak

Geiben MOVED to adjourn, Seconded by Jacoby and Carried 5 - . (7:30 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk