

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Geiben, J. Jacoby & R. Morreale; Captain J. Cain; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Eng. R. Lannon; WPCC Ch. Op. J. Ritter; Water Foreman D. Zahno; Historian M. Maggard; 1 Press; 10 Residents and Dep. Clerk C. Schroeder

Excused: Dep. Sup. B. Conrad; Highway Supt. D. Trane

The Supervisor called the meeting to order, followed by the Pledge of Allegiance and a moment of silence in remembrance of Legislator Clyde Burmaster who passed away earlier that day.

AGENDA: Additions: Call for Public Hearing – Borrego Solar, Williams Road; Sewer Credit, 4074 Creek Road; Art. 7 Resolutions (2); Bri Estates Report (Jacoby); Executive Session re Personnel Matter (WPCC); Executive Session re Contractual Issues (Parks/Rec).

Bax MOVED the agenda, as amended. Seconded by Jacoby and carried 5-0.

Broderick said the Niagara Falls Air Reserve Station Presentation will be held Sept. 23, 2019.

RESIDENTS STATEMENTS:

Linda and Jack Carlson, 435 Kenwood Drive, came before the Board at the last meeting about a fence issue at 439 Kenwood Drive. Masters sent a Notice of Compliance. The matter is now in Court. Carlson asked if someone would notify her when the Court date is so she can attend. Broderick said they would.

Carlson spoke about a variance the neighbor received for putting on an extra room in the back. She asked for the Town Code on new drainage. Aren't the downspouts supposed to be put in the ground to drain out to the front? Masters said if it were a new house, yes. If it is an existing house and they were on splash blocks before, then no. Carlson said it is causing them drainage problems. It is draining into their yard. Masters said that is the first he heard of this.

Paul Torrey, 7320 Colonial Drive, addressed the Board about Bri Estates, a proposed subdivision in the Town of Niagara. A copy of the Scoping Document, dated July 29, was sent to the Town of Lewiston. From that date, the Town of Niagara has 60 days to answer to the Scoping Document with respect to the Environmental Impact. Torrey said the Town of Lewiston will absorb all of the water that comes from this project. The developers are proposing to build a one-acre pond. After a major rain event, it could hold up to 2 million gallons of water. Excess water will be discharged from this pond into the ditch systems along Miller Road, in the Town of Niagara, across the border of Lewiston to Saunders Settlement Road and across the road to the Gill Creek water system. The Town of Lewiston would have to clean the ditch system, almost a mile, to prevent major flooding. As it crosses Saunders Settlement Road, it goes into the cemetery (St. George's). The drainage pipe that runs thru the cemetery is almost 50 years old and is heaved up. If it gets plugged, the water could flood the cemetery. Torrey said there is a potential that 20-acres of trees will be torn down. A mature tree can absorb up to a 100-gals of water per day. Also, the the elevation will be raised 4 - 6 feet. Anything that is built in the future beyond that will have to match that elevation. The Concerned Citizens of Niagara/Lewiston hired an environmental specialist which was a contributing factor to the positive declaration the Town of Niagara imposed on the developer. The developer came back with the Scoping Document that the Town has to answer to. The Town of Niagara is going to have a work session to fill out that document. If the Town of Lewiston wants any input, that would be the opportunity to submit written documentation or send a representative. Torrey then submitted a question/answer statement to the Board as it pertains to the SEQR and DEIS.

Jacoby then read a prepared statement: Bri Estates is a 115 lot subdivision on approx. 40 acres. The property is to be raised 4 - 6 ft. above the surrounding property. Runoff

water will drain into a retention/detention pond, with any water in excess of the pond's capacity directed into the Town of Lewiston.

Due to the increased elevation of the project and the large amount of land being paved or covered by homes, virtually all of the rainfall will run into the retention pond. The Town of Niagara's concern with flooding in issuing a positive declaration is distinctly separate from the problem the Town of Lewiston may be faced with, being that their "solution" is to direct the excess water in to our Town where it may be excessive for our natural drainage.

No proposal for the maintenance of Lewiston's ditches, streams or flood plains has been proposed, offered or hinted, giving the distinct impression that "out of sight out of mind" is the primary operating guide.

I believe it would be in the best interest of the Town of Lewiston that we actively look after our interests before we are faced with an expensive and ongoing flood problem.

Mary Lodico, 724 Northridge Drive, expressed her concern regarding the posted speed and present traffic pattern for the project called Legacy @ Lewiston, interfacing the Condo's @ Ridgeview. Northridge Dr. begins at Rt. 104, comes down a hill then proceeds around 3 quick curves. In the short space of the 3 curves, there will be 35 driveways exiting on to Northridge Drive. At present there is a 30 MPH sign at the top of the hill and in the middle of the first curve. The sight lines are often blurred by parked cars. The new Town Houses will not have any parking lots so overflow will have to park in the street. Lodico asked the Board to select a pro-tem committee to discuss and find a solution for the traffic problems before someone gets hurt or killed.

Broderick said he would discuss this with the Highway Superintendent.

DEPARTMENT HEAD CONCERNS:

Town Clerk: Request permission to declare a HP Scanjet N6310 Scanner, Serial #CN8B6A60DZ, as excessive equipment and placed on Auctions International.

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

Niagara Falls Country Club notifies the Town they have applied for renewal of an alcoholic beverage license for their Clubhouse, Grill Room and Patio.

The Clerk asked for the names of the Town Board members who would be walking in the Peach Festival Parade. Geiben said the entire Board would be walking, as well as Legislator Rebecca Wydysh.

Building: Masters said he did a review of the Parks buildings. He is in the process of writing the report and would have it available at the work session.

WPCC: Ritter said Pletcher Road will be closed from Lower River Road (Rt. 18F) to the Joseph Davis Park access road on Wednesday August 28, 2019 from 7:00 a.m. to 5:00 p.m. for road culvert crossing installation.

Historian: Regarding Bri Estates, Maggard said she is concerned for the people living on Miller Road. Their backyards are a mess now. It's only going to get worse.

MINUTES: Geiben MOVED to approve the 7/22/19 RTBM minutes. Seconded by Jacoby and carried 5-0.

ABSTRACT:

08/12/19: **Bax MOVED to approve the Regular Abstract of Claims Numbered 2053 to 2271 and recommended payment in the amount of \$248,567.89, plus a post audit of \$9,026.57. Seconded by Morreale and carried 5-0.**

08/26/19: **Bax MOVED to approve the Regular Abstract of Claims Numbered 2272 to 2387 and recommended payment in the amount of \$245,448.05, plus a post audit of \$27,211.76. Seconded by Morreale and carried 5-0.**

PENDING BUSINESS:

Broderick reported the “Children at Play” sign was installed 8/9/19 on Meadowbrook Drive.

The Riverwalk Park resolutions are still pending. Geiben asked that this be removed from the agenda until further notice.

NEW BUSINESS: None.

SUPERVISOR:

- a) Niagara County Buildings and Parks is looking to build a new barn at Bond Lake Park, 2571 Lower Mountain Road. The permit to build the barn will cost \$1,950. The Commissioner requests the permit fee be waived, as they have been in the past.

Bax MOVED to waive the Building Permit fee for a new barn at Bond Lake Park. Seconded by Jacoby and carried 5-0.

- b) The Lewiston Fire Co. #2 submits for active membership the following individuals: Joel R. Flegal, Garlow Road, and Morgan A. Gorrow, Theresa Lane.

Geiben MOVED for approval, as presented. Seconded by Morreale and carried 5-0.

- c) The Lewiston Fire Co. #2 has submitted notice that the following individuals have been removed from the active fire company rolls: Michael Mountain and Eric Barascoupe.

Geiben MOVED for approval. Seconded by Morreale and carried 5-0.

Legal: Atty. Seaman said the Board needs to set a public hearing to consider a special use permit and site plan review for a ground mounted utility grade solar energy system on premises located at 4352 Williams Road.

Geiben MOVED to schedule a public hearing on said project for September 9, 2019 at 6 p.m. Seconded by Bax and carried 5-0.

Atty. Seaman said there have been two (2) Article 7 cases that have been on-going. The parties have reached a resolution that requires Board action to allow for the settlement stipulations. He read the following resolutions.

WHEREAS, there is an ongoing Article 7 civil tax challenge relative to **Ridgeview at Lewiston**, and

WHEREAS, the parties wish to resolve this matter by stipulation, and

WHEREAS, the below stipulation has been reviewed and approved by the Attorneys for the Town and the Town Assessor, now therefore,

BE IT RESOLVED, the **Ridgeview at Lewiston** Article 7 tax challenge will be resolved with an Assessed Value of \$4,200,000 (Four Million Two Hundred Thousand Dollars) for the combined parcels; refunds are waived, and the freeze extended one year for each year waived.

Bax MOVED to approve the foregoing resolution. Seconded by Morreale and carried 5-0.

Atty. Seaman then read the second resolution, as follows:

WHEREAS, there is an ongoing Article 7 civil tax challenge relative to **Historical Square**, and

WHEREAS, the parties wish to resolve this matter by stipulation, and

WHEREAS, the below stipulation has been reviewed and approved by the Attorneys for the Town and the Town Assessor, now therefore,

BE IT RESOLVED, the **Historical Square** Article 7 tax challenge will be resolved with an Assessed Value of \$2,600,000 (Two Million Six Hundred Thousand Dollars); refunds are waived, and the freeze extended one year for each year waived.

Bax MOVED to approve the foregoing resolution. Seconded by Jacoby and carried 5-0.

Engineer: Lannon said they had a pre-construction meeting on 8/16 on the new parks/police building. Currently, they are awaiting shop drawings and submittal process, one of which is a work schedule. Contractually, the contractor, Morton Building, has until March 2020 to get the building done, but, they have exhibited a desire to get it done this fall.

Finance: The Finance Director requested approval to process six budget revisions.

- 1) A request to move \$3,097 to Parks Equipment (B00-7110-0200-0000) from Parks Contractual (B00-7110-0400-0000) to cover the purchase of a replacement basketball hoop backboard and speed bump system for Kiwanis Park.

Morreale MOVED for approval. Seconded by Jacoby and carried 5-0.

- 2) A request to move a total of \$6,000 to the Grant Writing Services Contractual (B00-8095-0400-0000) by moving \$1,878 from B-Fund Contingency (B00-1990-0400-0000), \$2,000 from Data Processing Contractual (B00-1680-0400-0000) and \$2,122 from Engineering Firm Contractual (B00-1440-0440-0000) to cover the 2019 contract for the Grant Writer. The new Grant Writer contract was settled after the 2019 Budget was approved.

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

- 3) A request to move a total of \$475 to Senior Center Equipment (A00-7630-0200-0000) from Senior Center Contractual (A00-7630-0400-0000) to cover purchase and installation of a new hot water heater.

Geiben MOVED for approval. Seconded by Morreale and carried 5-0.

- 4) A request to move \$20,000 to Sewer Admin Contractual (SS1-8110-0400-0000) from Sewer Treatment & Disposal Equipment (SS1-8130-0200-0000) to cover additional lab testing and other contractual expenses through the end of the year.

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

- 5) A request to move \$1,370 to Recreation Seasonal Concessions Payroll (A00-7310-0100-4402) from Recreation Seasonal Concessions Contractual (A00-7310-0402-0000) to cover payroll expenses

Jacoby MOVED for approval. Seconded by Morreale and carried 5-0.

- 6) A request to move \$12,075 to Recreation Seasonal Special Events Payroll (A00-7310-0100-4401) from Recreation Seasonal Special Events Contractual (A00-7310-0401-0000) to cover payroll expenses.

Morreale MOVED for approval. Seconded by Jacoby and carried 5-0.

COUNCILMAN BAX:

- a) Sewer Refund – Pool – Greenfield Road:
Bax MOVED a sewer credit of \$60.75 to Thomas and Elaine Collister, Greenfield Road, after repair of their pool liner. Seconded by Geiben and carried 5-0.
- b) Sewer Refund – Pool – Raymond Drive: This was a request from Amanda & Brenden Gee for sewer forgiveness of \$72.90 for acid wash cleaning their pool liner. Ritter said this should be denied as it does not meet the criteria in the Sewer Use Agreement.
- c) Sewer Refund – Pool – Briarwood Lane:
Bax MOVED a sewer credit of \$121.53 to Enrico and Elizabeth Cardamone, Briarwood Lane after repair of their pool liner. Seconded by Morreale and carried 5-0.
- d) Sewer Refund – Pool – Creek Road: This was tabled until the next meeting.
- e) Auctions International: Bax said the final bid amounts for excess police equipment were to be made available at the meeting. The Board would review this later in the meeting.
- f) Highway Fees: Bax said he had nothing to report. Tabled until the Highway Superintendent could speak to this.

COUNCILMAN GEIBEN:

Geiben took the opportunity to introduce intern Nico Ciotoli, who majors in Digital Media at NCCC. He will partake in an independent study this semester and will be recording Town Board meetings.

COUNCILMAN JACOBY:

- a) Call for Public Hearing – Local Law – Towers: Jacoby read a proposed local law into the record.

Be it enacted by the Town Board of the Town of Lewiston, as follows:

1. Chapter 320 of the Town Code (Local Law No. 4-1997) entitled “Towers Law of the Town of Lewiston”, provides for the construction and operation of telecommunication towers, radio and television towers, wind energy conservation tower arrays and similar facilities.
2. Section 320.3A(2) of the Town Code, defining “Lattice Tower”, is hereby amended by removing the words “Not permitted” and adding the words “A communications tower consisting of freestanding framework.”
3. Section 320.3 of the Town Code is hereby amended by adding, as subsection C thereof, the words “C. A lattice tower shall be permitted only if its sole purpose is for public safety or emergency communication.”

This local law shall become effective immediately upon filing with the Secretary of State.

Jacoby MOVED to schedule a Public Hearing on said proposed local law for September 9, 2019 at 6:00 p.m., Seconded by Geiben and carried 5-0.

- b) N.C. Public Safety Communication – Proposed Lease Agreement:

The Attorney for Niagara County, Ned Perlman, had prepared a Lease Agreement between the County and Town of Lewiston. Since then, the Building Inspector said there should be language in the Agreement regarding an easement for the installation of utility lines to the Lattice Tower.

Perlman said he would put language in the proposed lease regarding the easement. This was tabled until the work session.

Lastly, Jacoby welcomed back Paulette Glasgow. It's good to see her back.

COUNCILMAN MORREALE:

- a) Tree Removal at Kiwanis Park: The Recreation Director obtained quotes to cut down 35 marked trees, remove all wood & branches, grind stumps and complete cleanup at Kiwanis Park.

The lowest quote came in at \$8,050.00 (\$230/tree).

Morreale MOVED to accept the bid from Ridgeview Tree Service, LLC contingent upon Attorney approval and review of insurance documents. Seconded by Jacoby and carried 5-0.

Morreale MOVED to authorize the Supervisor to sign said agreement, pending review of the Attorney. Seconded by Jacoby and carried 5-0.

- b) Property Maintenance: Dashineau provided pictures of a dead tree that sits on Town-owned property between Cherry Lane and Lower River Road. This tree is threatening a private structure at 4671 Lower River Road. Dashineau is unaware of who maintains this property (Parks does not). He is asking the Board to investigate this matter and allocate funding for the removal of the tree. Dashineau to obtain 3 quotes for the tree's removal.

Dashineau updated the Board on several Parks & Recreation matters:

- 1) Review and Approval of Greenway Application: Kiwanis Park Basketball: Dashineau obtained a quote from a general contractor in the amount of \$180,000 for a fully intact Basketball Court at Kiwanis Park. Dashineau asked for approval of a resolution authorizing submittal of an application for Niagara River Greenway Funds. The next submission date for the Greenway Application is September 10.

The Clerk read the resolution, as follows:

WHEREAS, the Town Board desires to acquiring the funds to complete Town of Lewiston, Kiwanis Park Court Installation; and

WHEREAS, The Town Board desires to provide this type of amenity to residents at the lowest possible cost to the Town and Town taxpayers; and

WHEREAS, the Town Board desires to apply for financial assistance from the Niagara River Greenway; and

WHEREAS, the Town Board commits to providing the required local matching funds to insure the timely implementation of the proposed project.

THEREFORE BE IT RESOLVED, that the Town Board authorizes and submits an application for the Niagara River Greenway funds for the Kiwanis Park Court Installation in the amount of \$180,000; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign all documents and agreements related to the Niagara River Greenway Program application

RESOLVED, that Steve Broderick, as Supervisor of the Town of Lewiston, is hereby authorized and directed to file an application for funds from the Niagara River Greenway and execute a project agreement for such financial assistance to the Town of Lewiston for the proposed Kiwanis Park Court Installation.

Morreale MOVED the authorizing resolution. Seconded by Jacoby and carried 5-0.

Dashineau said this is a determination of consistency. It is not going to the funding committee yet. It's going to the Greenway Commission to determine if the project is within the scope of the Greenway.

- 2) Town of Lewiston Parks Capital Projects List: Dashineau provided an updated list of Capital Projects that are either desirable or necessary for the functions and safety of the Parks System. Some of these projects have been discussed for years. He requested the Town Board review each project. When they go into budget session we can determine how to proceed and determine funding sources. The report is on file in the Clerk's office.

Geiben said this would be a perfect scenario for a work session. Sit around a table with the department head and discuss the projects individually.

- 3) Town of Lewiston Parks Playground Condition Report: Dashineau provided a brief report on the condition of each playground the department owns and maintains. The report is on file in the Clerk's office.

With respect to Washuta Park, constructed in 1997, Dashineau said the Board should consider removing this unit. It's low use, as well as the upcoming expiration of the lease agreement with the Washuta family should be considered, in addition to better uses of the space.

With respect to the Church on the Escarpment (formerly Upper Mountain Road Park), constructed in 1997, Dashineau said the park is in poor condition. The Church has not made any noticeable repairs. No matter the future intention for any agreement in this area, the Board should strongly consider removing this unit entirely, or consider selling the equipment back to the property owner.

- 4) Review of Lewiston Baseball and Tournaments: Dashineau provided information regarding the eighteen years they have run the Lancer Classic Baseball and Battle at Fort Niagara Softball Tournaments as a source of revenue for capital improvements on baseball facilities as well as a way to bring in thousands of visitors every summer to the Town of Lewiston.

After review, Dashineau asked the Board to determine if the Town wishes to continue offering these tournaments as part of the summer programs. In addition, he wishes to continue to use proceeds from the tournament to continue to fund capital improvements in the Baseball program. He hopes to have that answer by the September 9th work session in order to begin preparations for the 2020 Tournaments or informing teams of the Town's intention to discontinue.

- 5) Update on Ice Rink: Dashineau received a letter from the Village of Lewiston granting permission to use Academy Park to continue operating the Lewiston Family Ice Rink in 2019-2020. Funding to construct, operate and repair the rink are available in the Ice Rink budget.

Dashineau asked for a motion to:

- 1) Operate the Ice Rink in 2019-2020, including spending allocated funds immediately on necessary repairs, publicity and operations.
- 2) Allow the Recreation Department to begin adverting for sponsorships and set a fee schedule, calendar of use for public information, public outreach and information programs.

Jacoby MOVED for approval of the operation of the Ice Rink. Seconded by Bax and carried 5-0.

- 6) Transfer of Truck/Excess Equipment (Parks Truck):

August 26, 2019, RTBM

Dashineau said the Water Dept. transferred a 2004 Ford F250 Super Duty, VIN# 1FTNF20L14EC75119 to the Parks Dept.

Dashineau asked for a motion to declare a 2007 Ford F150, VIN# 1FTPX14V77NA24041 as excess equipment and placed for sale on Auctions International.

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

The Board took a 10 minutes break at this time.

Approval of Auctions International Bids – Police: Broderick said he was able to locate the bids for 43 items from Auctions International of excess police equipment. The total amount of the bids totaled \$4,302.

Bax MOVED to approve the Auctions International final bid of \$4,302 for 43 items. Seconded by Morreale and carried 5-0.

RESIDENTS STATEMENTS: No one wished to speak.

Executive Session

Bax MOVED to enter into Executive Session re 1) Consultation with Attorney for the purpose of potential litigation relative to a contractual issue; and 2) Personnel issue of a particular employee. Seconded by Jacoby and carried 5-0. Time 8:15.

EXECUTIVE SESSION:

Present: Broderick, Bax, Geiben, Jacoby, Morreale, Agnello and Seaman.

Also Present: Jeff Ritter (Item 1) and Mike Dashineau (Item 2).

Issues Discussed:

1. Matters related to employment of a particular person.
2. Consultation with Attorney regarding a contractual matter.

Bax MOVED to exit executive session. Seconded by Jacoby and carried 5-0.

No action taken. Minutes taken by Attorney Seaman.

Bax MOVED to adjourn. Seconded by Jacoby and carried 5-0.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk