

TOWN BOARD MEETING

JULY 24, 2023

6:00 PM

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, R. Morreale and J. Myers; Deputy Sup. W. Conrad; Atty. A. Bax; Finance Director J. Agnello; Building Inspector T. Masters; Highway Supt. M. Zahno; Rec. Dir. T. Smith; Police Capt. M. Salada; Eng. R. Lannon; Sr. Cit. Coordinator M. Olick; WWTP Chief Opt. J. Ritter (ZOOM); Dpt. Bld. Insp. E. Zimmerman (ZOOM), 17 residents, Press (ZOOM) and Clerk D. Garfinkel

EXCUSED: Water Foreman D. Zahno

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

PUBLIC HEARING – LOCAL LAW #1 - 2023 – Establish temporary Moratorium on New Short-Term Rentals

Clerk read Public Hearing Notice into the record.

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 24th day of July, 2023 at 6:00 p.m. at the Town Hall, 1375 Ridge Rd., Lewiston, NY. The meeting will be live streamed via Zoom software and the public may participate in the live stream via Zoom by using the following link:

Said Public Hearing is regarding the adoption of a proposed Local Law entitled “A Local Law Establishing A Temporary Moratorium on New Short-Term Rentals in Town of Lewiston,” an abstract of which is as follows:

The Town of Lewiston recognizes the growing interest in short-term rental property uses in the Town of Lewiston. It is further recognized that the short-term rental use is not currently authorized or properly regulated under the Town of Lewiston Code and could be incompatible with the existing character and property uses in some areas of the Town of Lewiston. It is further recognized that this incompatibility would potentially compromise and inhibit more appropriate growth as established by the Town of Lewiston’s comprehensive plan and Zoning Code. Therefore, the purpose of this moratorium is to allow the Town Board the opportunity to draft a Short-Term Rental Law and/or update the Town’s current Zoning Code as appropriate including, but not limited to, a determination as to whether short-term rentals should be permitted within the Town of Lewiston and, if allowed, an analysis of where and in what manner short-term rentals are most appropriate. These efforts are undertaken to promote and protect the health, safety and welfare of the citizens of the Town of Lewiston.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours, or can be emailed upon request.

At such public hearing, all persons interested, who wish to be heard, will be heard.

Dated: July 10, 2023

Atty. Bax said this Moratorium provides the Town Board the opportunity to do their due-diligence on this subject. The public will have additional opportunity to speak on the proposed law. There will be another Public Hearing once the Local Law or Zoning change has been made.

Supervisor invited residents to address the Board – no one wished to speak.

Geiben MOVED to close the Public Hearing, Seconded by Jacoby and Carried 5 – 0. (6:07 pm)

AGENDA APPROVAL

Additions: Broderick – NCCC lights request and a General Entry. Myers – Sanborn X-mas lights

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

RESIDENTS STATEMENTS – None

2022 TOWN AUDIT PRESENTATION - DRESHER & MALECKI

Carl Widmer, CPA from Dresher & Malecki discussed the Town Audit. Dresher came out in January to perform preliminary audit procedures.

Widmer said the Town is responsible to maintain its financial records. Town management takes ultimate responsibility for the Financial Statements.

The Auditors are not here to look for fraud. The audit procedures are designed to obtain assurance and confidence over the Town's financial statements. If fraud is detected, it would be communicated to the Town Board. Widmer is happy to say no fraud was found.

Financial Statement Update

Operations Trend – General Fund

The Town had four (4) years of profit, but in 2022 the Town spent more than it took in, by design. The Town took care of some capital improvements. Of the approximate General Fund Balances \$2 million, approximately \$1,126,406 is available/unassigned, or 33% of the year's spending.

Operations Trend – General – Town Outside Village Fund

Similar to the General Fund, the Town Outside Village Fund made money for the last four (4) years, but in 2022 spent the money on capital projects. Revenue had a slight increase. These increases are directly related to the Town's ARPA. The available fund balance is shy of \$2 million, or 41% of the year's spending.

Operations Trend – Highway Fund

There is a smaller gap between the revenues and expenditures. Money was used for paving and the increase in cost of materials. The available fund balance is just over \$1 million, or 25% of the year's spending.

Operations Trend – Water District Fund

Operations of the fund were relatively consistent for the last three (3) years. There is an increase in revenue. The available fund balance is \$1.9 million, or 79% of the year's spending.

Operations Trend – Sewer District Fund

This fund is kind of a wash out.

Drescher looks at the policy and procedures of the departments. There are no reportable findings, so a good report card.

DEPARTMENT HEAD STATEMENTS

Town Clerk Garfinkel – Dickersonville Cemetery Rules & Regulations

The Town has taken over the opening and closing of graves at the Dickersonville Cemetery. Garfinkel is requesting the Board approve the cost for this and to set hours of burial.

Jacoby MOVED to approve the following update to the Dickersonville Cemetery Rules and Regulations: Opening and closing of a full-grave shall be done by the Town of Lewiston Work Force at a fee of \$500 – Monday thru Friday; \$600 – Saturday; No Sunday and/or Holiday. Opening and closing of a cremation-grave shall be done by the Town of Lewiston Work Force at a fee of \$250 – Monday thru Friday; \$350 – Saturday; No Sunday and/or Holiday. After hours available for an additional charge of \$50 a ½ hour. Hours of burial – Monday – Friday 9:00 am – 3 :00 pm; Saturday – 9:00 am – Noon; Sunday and/or Holiday – No Burials, Seconded by Myers and Carried 5 – 0.

Captain Salada – The three (3) new recruits have completed the Academy and have started riding with other officers.

Senior Center Coordinator Olick – All activities are on and encourages all to come to the Center.

Broderick said anytime he goes by the Center there are more and more cars. Broderick encourages residents to go and check out all the activities.

Recreation Director Smith – The baseball season was a success – 330 kids. There is a fee for the day-park activities, and has been very successful.

There will be yoga and karate at the parks.

August 1st is Carnival Day for all, noon – 3 pm.

APPROVAL OF MEETING MINUTES

TOWN BOARD MEETING

JULY 24, 2023

6:00 PM

Town Board Meeting – 6/26/2023

Geiben requested the R be removed in the second sentence, on page 60. Should read H-97.

Geiben MOVED to approve the meeting minutes of June 26, 2023, with the above noted correction, Seconded by Morreale and Carried 5 – 0.

Special Town Work Session – 7/10/2023

Geiben MOVED to approve the meeting minutes of July 10, 2023, Seconded by Jacoby and Carried 5 – 0.

AUDIT PAYMENT

Geiben MOVED to approve the Regular Abstract of Claims for 23-01792 thru 23-01969, and recommend payment in the amount of \$531,331.28, plus a Post Audit of \$11,922.73, Seconded by Morreale and Carried 5 – 0.

PENDING / OLD BUSINESS - None

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Upper Mt. Fire Co. Roster Addition

Geiben MOVED to add Argona, Ronald – Escarpment Drive to the Upper Mountain Fire Co. Roster, Seconded by Morreale and Carried 5 – 0.

Niagara County Community College has requested the use of the lights that were used for the Ice Rink.

Geiben MOVED to allow NCCC to use the lights from the Lewiston Ice Rink, on August 11, 2023, Seconded by Myers and Carried 5 – 0.

Legal - Approve/Disapprove Local Law #1-2023

Bax told those in attendance they will be given another opportunity to speak once the Local Law or change to the Zoning Code is presented.

Geiben MOVED to approve Local Law No. 1 of 2023 – A Temporary Moratorium on New Short-Term Rentals in Town of Lewiston, Seconded by Jacoby

Roll Call:

TOWN BOARD MEETING

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6:00 PM

Councilman Geiben	Aye
Councilman Jacoby	Aye
Councilman Morreale	Aye
Councilman Myers	Aye
Supervisor Broderick	Aye

Motion Carried 5 – 0.

Engineering - None

Finance - Agnello requests the following 2022 Budget Revisions:

The auditors selected just one account in each fund for the accrual to account for 2022 earnings paid in 2023 for each of the following 2022 Revisions.

Transfer \$10,837.00 from Police Personnel SRO Wheatfield - B00-3120-0100-0025 and \$9,437.00 from Police Equipment - B00-3120-0200-0000 for a total of \$20,274 to Police Personnel - B00-3120-0100-0000, to cover YE 2022 adjusting journal entry to account for the method of accruing payroll for the B Fund per the auditors.

Transfer \$76,102.00 from Sales Tax - DB0-1000-1120-0000 to Highway General Repairs Personnel - DB0-5110-0100-0000, to cover YE 2022 adjusting journal entry to account for method of accruing payroll for the DB0 Fund per the auditors.

Transfer \$957.00 from Treatment & Disposal Personnel - SS1-8130-0100-0000, to Sewer Admin Personnel - SS1-8110-0100-0000, to cover YE 2022 adjusting journal entry to account for method of accruing payroll for the SS1 Fund per the auditors.

Transfer \$15,386.00 from Source of Supply Contractual - SW1-8320-0400-0000 to Transmission & Distribution Personnel - SW1-8340-0100-0000, to cover YE 2022 adjusting journal entry to account for method of accruing payroll for the SW1 Fund per the auditors.

Agnello requests the following 2023 Budget Revisions:

Transfer \$3,431.00 from B Fund Contingency - B00-1990-0400-0000 to PIP Engineering - B00-1440-0440-0100, to cover engineering expenses for old engineering projects paid for by the applicant in prior years.

Transfer \$3,500.00 from Grant Writing Contractual - B00-8095-0400-0000 to Grant Writing Personnel - B00-8095-0100-0000, to cover personnel expenses for grant completion in the absence of the grant writer.

Geiben MOVED approval of Budget Transfers as presented, Seconded by Jacoby and Carried 5 – 0.

Broderick said the Riverfront Park is moving along. Benches, garbage cans and trees have been purchased and there are other incidentals that need to be purchased.

Geiben MOVED to approve the transfer of \$50,000 from B-Fund Balance and \$50,000 from A-Fund Balance to H-23 – Riverfront Park, Seconded by Morreale and Carried 5 – 0.

COUNCILMAN GEIBEN - Nothing to report

COUNCILMAN JACOBY - Nothing to report

COUNCILMAN MORREALE

Morreale MOVED approval for the following Sewer Refunds: Gualtieri, Jason Court for \$99.39; Badolato, Wolf Run for \$45.92; Zelinski, Creek Road Ext. for \$40.90 and Shoff, Escarpment Dr. for \$130.86, Seconded by Jacoby

Ritter has approved these refunds

Carried 5 – 0.

Morreale MOVED to deny the Sewer Refund for Ivancic, Hickory Lane, because it does not fit within the Towns Sewer Use Agreement, Seconded by Geiben

Ritter said this is being denied because buying a liner or redoing the concrete in your pool is where the line has been drawn.

Carried 5 – 0.

Zoning Board of Appeals

Morreale said Patrick Roemer did not fulfill the necessary schooling, therefore would like to appoint alternate David Warnick to the Board.

Morreale MOVED to appoint David Warnick to fill Roemer’s position on the Zoning Board of Appeals, with the term to expire Dec. 31, 2026, Seconded by Geiben and Carried 5 – 0.

Broderick said this Board has two openings for Alternates if anyone is interested.

Resolution – Opposition NYS Senate Bill S-139B - Resolution No. 2023 – 003

RESOLUTION IN OPPOSITION TO NEW YORK STATE SENATE BILL S-139B

WHEREAS, New York Senate Bill number S-139B was passed which, if adopted by the NYS Assembly (A 1358-B) and signed by the Governor in the last legislative session, would require that all Judges presiding in the 100 largest Town and Village Courts in New York State,

to be licensed to practice law in the State, and have been admitted to the New York State Bar for at least five years, and,

WHEREAS, the 12 Town and Village Courts in Niagara County are part of the nearly 1,200 Justice Courts in the State of New York that collectively handle well over 1 million cases each year, and generate over \$1.6 million dollars for the towns and villages in Niagara County.

WHEREAS, the Town & Village Courts are known as the “Courts Closest to the People” and have broad jurisdiction, presiding over civil and criminal matters, thereby performing a vital role in the New York State Unified Court System.

WHEREAS, the Town/Village Courts of Niagara County are a vital service to our residents and to the Niagara County community as a whole.

WHEREAS, the 23 Justices in Niagara County’s Town and Village Courts have pledged to be ever mindful of their neutrality and impartiality, and render equal justice to all, while continually adhering to the judicial rules of ethics and pronouncements of the New York State Commission on Judicial Conduct.

WHEREAS, the Justices are required to be on-call 24 hours a day, 365 days a year to sign arrest and search warrants, perform arraignments, and issue orders of protection.

WHEREAS, the Justices of Town and Village Courts ensure that the rights afforded to defendants by the Constitutions of the United States and of the State of New York are provided and protected.

WHEREAS, the Justices of Town and Village Courts preside over trials involving misdemeanor and violation level offenses, thereby ensuring that the victims of those offenses can be heard.

WHEREAS, the Town and Village Courts provide a venue for citizens to pursue a low-cost and efficient procedure for individuals to resolve civil disputes and landlord/tenant matters.

WHEREAS, the Justices preside nightly and weekend and holiday mornings at the Niagara County Arraignment Part (‘CAP’) conducted in the County Jail, that ensures that arrested citizens are promptly afforded legal representation, the opportunity to plead to alleged charges, and to be processed for release, bail, or incarceration.

WHEREAS, the Justices continually strive to improve the administration of justice through participation in mandatory education programs, seminars, meetings of the Niagara County Magistrates Associations and the New York State Magistrates Association.

WHEREAS, the NYS Office of Court Administration must certify all as having successfully completed mandatory training both following election and in each subsequent year.

WHEREAS, the New York State’s Commission on Judicial Conduct’s most recent annual report (2023) identifies that only 13% of the complaints filed against the judiciary were against town and village judges while the remaining complaints were against either “State-paid” judges, (constituting approximately 40% of the judiciary) who accounted for approximately 67% of the complaints received, or against non-judicial entities (20%).

WHEREAS, this Bill attempts to usurp the right of voters to elect those in their communities that they believe to be fair and impartial, and who would best serve that community, whether they be attorney or non-attorney.

WHEREAS, this Bill implicitly suggests that members of a community are incapable of making informed decisions about who should sit in judgment of matters from the straightforward to the highly complex as may arise in their local courts.

WHEREAS, this legislative body views the intention of this Bill is not to actually improve the courts, but a blatant and unconscionable attempt by the New York State Bar Association, an organization that represents approximately fifteen percent (15%) of the State's attorneys, to generate increased opportunities for its members, and to dictate who voters choose to serve in our local governments.

THEREFORE, BE IT RESOLVED, that the Governing board of the Town of Lewiston strongly, and in unequivocal terms, calls upon both the leadership in the New York State Senate and in the New York State Assembly, and the Governor, to reject this poorly conceived and hastily fashioned seizure of voters' rights to determine, for themselves, who they would choose to sit as their judges as has been the case for almost two hundred years.
Adopted by unanimous consent this 25th day of July, 2023.

Morreale MOVED to adopt the above Resolution, Seconded by Geiben and Carried 5 – 0.

Morreale said in short, the State wants to require that Town Justices be Attorneys. The Town does not agree with that.

COUNCILMAN MYERS

The Town is looking into replacing the large snowflake decorations on the light poles on Buffalo Avenue.

Myers received three (3) quotes: Manneco Inc. = \$483.12/each; Down Town Decorations = \$485/each; All American Christmas Co. = \$685.31.

Myers MOVED to approve the lowest bidder – Manneco Inc. in the amount of \$483.12/each for 17, Seconded by Jacoby and Carried 5 – 0.

Funds to come from H-98.

Sanborn Farm Museum had their annual Farm Event, and was a great event.

Geiben MOVED to adjourn the meeting, Seconded by Morreale and Carried 5 – 0. (6:48 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk