

REGULAR TOWN BOARD MEETING

September 25, 2017

6:00 P.M.

**PRESENT:** Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Attorneys Catalano, Parisi and Seaman; Highway Superintendent Trane; Engineer Lannon; Building Inspector Masters, WWTP Chief Opt. Ritter; Water Foreman Townsend; Officer Penzotti; 2 Press; 26 Residents and Clerk Donna Garfinkel

The Supervisor opened the meeting with the Pledge to the flag followed by a moment of silent reflection.

#### AGENDA APPROVAL

Additional Agenda Items: Geiben – Environmental Commission Secretary; Morreale – Remove – No – Smoking from agenda; Parisi – Executive Session - pending litigation/resident property damage.

agenda  
approved

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

#### RESIDENT STATEMENTS

Nashwinter, Patricia – The Circle – Nashwinter is here on behave of the neighborhood regarding the Upper Mountain Road Rubino development.

The DiMino's are not present tonight, but asked Nashwinter to mention to the Board that the traffic study done did not include Bronson Drive, just Upper Mountain Road.

All Board members are aware of how the neighborhood feels about the project, and Nashwinter asks the Town Board what stake the Rubino brothers have in this community. Nashwinter and her husband have lived at 888 The Circle for 23 years. Their two children were born and raised here; attended Lewiston-Porter and Niagara University. Both her and her husband have volunteered, coached multiple sports teams, and have owned businesses in this community.

Nashwinter asks the Board to ask themselves what the Rubinos have invested in this community; Nothing. All those in this room have their entire lives invested in this community. Nashwinter requests the Board table this again.

Kivi, Barbara – Real Estate Broker – Kivi has served Lewiston as a real estate agent for 37 years. She has represented many builders and many individuals.

When Saddlewood began, these people here tonight, did not want Saddlewood either. In order to have Saddlewood approved, 9 building lots had to be set aside that would about the Bronson Drive properties. This was done because the Bronson Drive families felt that the housing market was going to be inferior to their values. They wanted some type of certainty that their values would be kept up.

There is definitely a need for patio homes. People want a life style not a common wall.

Kivi requests this be taken very seriously for the community. There are a lot of elderly residents that will be served very well by this subdivision. There are no negatives.

Many people that about the Wally Moll farm purchased land from Moll for a buffer. They were thinking even back then, that this land would be sold.

Rose Mary Warren – Griffin Street - Town Clerk read a letter received from Warren because she was unable to attend. She spoke of the Tuscarora Reservation receiving the debit card.

#### PRESENTATION – NIAGARA MILITARY AFFAIRS COUNCIL – (NIMAC)

Fred Caso, Treasurer - NIMAC. NIMAC is a group of volunteers, who for the last 22 years have been working to strengthen the connection between the Niagara Falls Air Reserve Station and this community. Importantly they communicate and make a strong connection between the Federal, State and local elected officials.

This is the largest employer in the area. 3,000 jobs are directly impacted on this base. Many of them are residents of Lewiston. Many businesses in the Town do business with the Air Base, as do hundreds of others through-out the community.

Caso has been involved with the Base since 1995. In 1995, the Federal Government Base Realignment and Closing Commission (BRAC) said they were going to close the Niagara Air Reserve Station. At that time NIMAC was formed. The community came together and prepared some facts to show members of BRAC they were wrong. The base was saved. This was done again in 2005, and the community rose up again.

Today the mission for NIMAC is even more important. All owe a huge debt of gratitude to current Chairman John Cooper and the late Merrell Lane, for the 22 years they have put in keeping NIMAC an operating organization.

NIMAC is constantly working to bring investment into the base. NIMAC is directly responsible for tens of millions of dollars in new construction and new facilities on the base, all to make it look more prominent if BRAC looks at it again.

NIMAC works hand and glove with the leadership of the base and the representatives to have direct access to the Pentagon. There are two units at the base, 914<sup>th</sup> Airlift Wing and 107th Attack Wing.

Caso distributed the NIMAC 2016 Year in Review giving a background look at NIMAC. NIMAC receives support from numerous communities and Caso asks for continued support from the Town. Caso said NIMAC is very tight with the dollars. All audits have been successful.

The Thunder of Niagara air show will return in 2018. All proceeds raised at this event go directly back to the family supporting units at the base. Particularly during the times these units are deployed.

#### DEPARTMENT HEAD STATEMENTS

Highway Superintendent Trane – Trane informed the Board of an accident at the highway garage. The garage door is broken and the building is unsecure. The door company will make the repairs. Trane is request to transfer funds to cover the cost. This needs to be done right away to secure the building.

TB approves  
Mar-Wall transfer  
for cost  
of garage  
repair

Blazick said this will be covered by insurance, so once the dollars are paid, the money can go back into the fund. If there is not enough in Trane's budget there is money in H-97.

**Geiben MOVED to declare this an emergency situation and authorize Trane to secure the building with a new door, Seconded by Bax and Carried 5 – 0.**

**Geiben MOVED to amend the motion to include, due to potential theft and / or damage of Town property, Seconded by Bax and Carried 5 – 0.**

Captain Penzotti – Two residents started the “Invest in a Vest” program. The vests have arrived and will be issued to officers tomorrow. The department thanks Arlene Sliz and Claudia Marasco for all their time and effort. The department thanks the community, who donated over \$30,000 to the Police Department to purchase these vests.

Water Foreman Townsend - Fire Hydrant Tap Installation – 817/823 The Circle. The paperwork has been reviewed and accepted by Parisi. Townsend requests accepting the bid from Mar-Wall Construction Co., in the amount of \$5,700.

TB approves  
Mar-Wall  
for Fire  
hydrant

**Geiben MOVED to authorize the spending of \$5,700, to Mar-Wall Construction Co. for the installations of a fire hydrant at 817/823 The Circle, Seconded by Ceretto and Carried 5 – 0.**

The Circle  
Grant Writer Rotella – The charging station grant is open, so details on the budget are needed. Morreale and Masters are working with Rotella.

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The DASNY Heavy Duty Truck and Fire Hydrants was sent on Sept. 21<sup>st</sup>.

A grant is being completed for a sewer extension in Sanborn. Rotella is also working with Ritter on a Combined Heat and Power grant.

APPROVAL OF MEETING MINUTES - No minutes

Blazick referenced meeting minutes of August 28, 2017, page 137, under roof repair approved. The budget code to incorrect. It reads – A6019-1400.0000.0000. It should be transferred from the insurance which is A1910.0400 to buildings contractual which is A00-1620.0400 and pay the bill.

board minutes amended **Bax MOVED to amend the meeting minutes of August 28, 2017 to reflect the above budget transfer, Seconded by Geiben and Carried 5 – 0.**

AUDIT PAYMENT

audit approved **Morreale MOVED to approve the Regular Abstract of Claims numbers 2626 to 2786, in the amount of \$311,894.00 and a Post Audit of \$5,090.77, Seconded by Bax and Carried 5 – 0.**

OLD BUSINESS

Lower River Road water issue – Tabled  
Drainage Issue – Saunders Settlement Road – Tabled

Dog Shelter – Lannon worked with Garfinkel and Masters and put together a bid package. It has been sent to four (4) potential bidders. They are to be returned to the Town Clerk by October 4<sup>th</sup>, to be considered by the Town Board on October 12, 2017.

Rotella asked if the Town was going to submit a grant for the shelter. Broderick said it is believed the Town will still submit for the grant. Rotella said the Town can't do anything, just get an estimate. If using grant funded money the Town needs to get an award letter and execute a contract.

Broderick asked Rotella to contact Garfinkel in the morning and move on it. Garfinkel said she was under the impression that Ags. & Markets has not even announced the grant. Rotella said the cycle is open ongoing. Broderick again asked Rotella to contact Garfinkel in the morning.

Geiben suggested Lannon continue with the bids.

Personnel Issue – B. Joseph. There was a question regarding the Policy Manual and the Union Contract. Ryan said it is up to the discretion of the Board, to grant or not.

Joseph, B sick approved **Ceretto MOVED to approve an additional twenty (20) sick days paid at half pay as per the employee handbook, Seconded by Morreale, and Carried 5 – 0.**

**Ceretto MOVED to have the above motion go into affect the day Joseph ran out of time, Seconded by Geiben and Carried 5 – 0.**

Video Recording Equipment – Abbondanza is working with Garfinkel on the purchase of the equipment. Abbondanza will seek permission to calibrate the equipment once it arrives.

Re-Zoning – Niagara University. The Local Law was introduced at the Work Session held on September 11<sup>th</sup>. A Public Hearing needs to be scheduled.

NU Re-zone

IH set **Bax MOVED to hold a Public Hearing on October 23<sup>rd</sup> at 6:00 pm in regards to the Re-Zoning – Niagara University Local Law, Seconded by Morreale and Carried 5 – 0.**

Upper Mt. Road PUB Concept Plan – Rubino Brothers. Bax received several e-mails from the Rubino brothers regarding some changes based on the Public Hearing. Bax would like to table this one more meeting. Bax intends to meet with some of the residents in the area.

Morreale requested Mr. Rubino address some questions. This is a large project for the Town. The Board is here for the taxpayers.

Morreale questioned what guarantees there is if any damage occurs during construction. Whether it is blasting, flooding, etc... If residents have cracks in their homes will they be coming back to the Town?

Rubino said in regards to blasting, it is not even a given at this time. It depend on the depth of the bedrock. In getting a blasting permit, before any activity takes place, an independent surveyor goes house to house and surveys the windows, walls, drywall, etc... and it is all noted. During blasting, all the seismic blasts are recorded. After all is completed, the same company goes back and resurveys the homes. If there is damage it is covered by the blasting company. They are bonded.

Morreale questioned the liability to the Town infrastructure. There are water and sewer lines in this area. Once completed, roughly 27,500 gallons of water a day will be used in this project. If another water line is needed to help with the excessive water that will be needed, who is liable for the installations? Rubino said the developer needs to prove there is sufficient water and sewer capacity for the development. That will not be approved unless the Town Engineer approves this.

Morreale suggested the Power Authority be contacted regarding this. They have had an issue with their dike, and sink holes showing up.

It was questioned if the development would dig into the water table. Rubino is not sure; it is not known where the water table is. Lot 8 on Bridlepath Lane had an 8 foot cellar installed. Morreale is inquiring because many people on the Tuscarora Reservation still use well water.

In regards to financing, Morreale read the Code Book. The applicant shows prior successful completion of projects in a similar scope. Rubino said this was addressed at a Planning Board meeting.

Rubino has said that Lewiston is thirsty for development. Morreale researched the number of available building lots. There are approximately 240 building lots in Lewiston, as of today.

Rubino said his phone is ringing. There is a list of people that are interested in this development. It is a good piece of property, and a great location. If there was not demand, he would not be here. The Rubino brothers are not Lewiston residents. They purchase property per the zoning, see if there is demand, is there capacity for infrastructure, and move forward.

Morreale has reviewed the EAF regarding the drainage status of the site. It states "poorly drained". What does this mean? Rubino said he is not the engineer, but has seen this on almost every application. Soil typically is poorly drained.

Morreale went on to read the questions regarding the flood plan. The answer is yes to the project being in a designated flood plan, a 100 year flood plan, and 500 year flood plan. Rubino said that is why thousands of dollars are spent with the State and Federal government on the wetland delineation. This is all done with current information.

Morreale said in the original site plan, Bronson Drive exit was not to be the main thoroughfare, but will it be now? Rubino said in the original concept plan that was approved, there was always to be another entrance onto Bronson and Upper Mountain. This is a sizable development and this would accommodate the residents.

Bax questioned Rubino if the comment about the traffic study only including Upper Mountain and not Bronson Drive is accurate? Rubino said he cannot answer that 100%. For the development that was approved years ago, a traffic consultant did how many units were going to be in the development verses what there is today. They came up with the assessment it will be less traffic than the original development that was approved. Bax asked if this is based on the 1982 number. Rubino said it is based on the number of the development. They did look at Upper Mountain Road in that report.

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Rubino said if the Board votes to move on, the answers to these questions could be presented at the next meeting. Bax said one of the major concerns is will the entry on Bronson Drive possibly be a gated road for emergency vehicles only?

Catalano said that is why it is a paved; in 1985 it did not need to be paved. This is due to the updates in the code.

Morreale questioned the density of the project. There are a lot of homes closer together than the original plan in 1982. Is this density okay with the amount of wetlands? Rubino said this is being done by Town code.

There could potentially be a violation behind the townhouses if the project goes. Rubino said behind lots 36-38 will not be up to the lot-line. In the plan before the Board, there will be no fences or sheds permitted.

Bax asked if there has been any remediation regarding the issue of the drive coming out on to Bronson Drives, and the lights going directly into the home. Rubino did speak with this individual. The developer is willing to place trees on their property to help.

Geiben asked what the procedure is from this point forward. Catalano said this is just a concept plan. They will come back with detailed plans for the next phase of the project. That is approved by the Town Engineer making sure it complies with all Town codes.

Geiben asked for clarification, if the concept plan is approved, it does not guarantee the project will move forward. Once the SEQRA is presented, if there are still questions the project could die at that point. Geiben asked what the time frame is.

Masters said within 31-days following receipt by the Town Board, of the Planning Board report, the Town Board shall conduct a Public Hearing. Then 62-days thereafter, the Town Board shall either refuse to approve the concept plan or shall refer back to the Planning Board.

Conrad, speaking as Planning Board Chairman, said the traffic study was completed pretty quickly. The Planning Board is working diligently with the developer, due to the history of Lewiston and development. Conrad asks the Board to consider, the only way these issues will be answered is if this is moved forward. The Concept Plan is just that, a Concept Plan. Nothing will be built because of it. Conrad feels it is wise to consider approval of the Concept Plan so this can move forward.

Geiben asked Masters again about the clock. The Town has 62 days to either approve/reject or send back to Planning Board.

Masters agrees with Conrad wholeheartedly, a lot of the answers the Board is looking for will not come forward until the Detailed Plan starts to get formulated. There are no numbers, soil boring, this is strictly a concept. The traffic analysis is not required, according to Town Code, until the Detailed Plan. Many of the questions being asked will be addressed in the Detail Plan.

Geiben said in order to get these answers the Board needs to move ahead and accept the Concept Plan.

Morreale asked Rubino if a traffic study will be done on Bronson Drive. He said whatever the Town requires.

Bax appreciates the Board being able to have this type of dialogue. It allows things to be ironed out and the Board to understand. Bax thanked Rubino for discussing this with Board.

Geiben has questions regarding the detention pond, and if it will be viable and the crossing of Fish Creek. Moving forward will allow this to be addressed.

**Geiben MOVED to accept the conceptual plan for the PUB - Rubino application. Seconded by Ceretto**

Rubino  
Concept  
Plan  
tabled

**Bax MOVED to table, Seconded by Morreale and Carried 5 – 0.**

**NEW BUSINESS**

Broderick received notification from New York State that the Lake Ontario Homeowner Relief and Recovery Program applications will expire on Friday, September 29, 2017. Anyone who has not submitted an application is encouraged to do so. Clerk to put on the Website.

**SUPERVISOR BRODERICK**

Liaison Report

National Grid – LED light upgrade – Broderick handed this off to Morreale. Morreale met with a representative from Lime Energy to retrofit the light fixtures in Town Hall, Police Building, Senior Center and the Highway Garage.

The total cost of the project will be \$44,629.33. The Town will receive a grant from National Grid of 60% in the amount of \$26,777.24. The Town will pay \$17,852.09. The estimated annual savings will be approximately \$10,500/year. In less than two years the Town will recoup the money spent and have all new lights and balls. The Water Pollution Control Center does not qualify for this grant due to the large amount of power usage.

Parisi began looking into the Town procurement policy/laws within New York State. There is another item Parisi would like to look into prior to giving the legal go ahead with this.

Morreale said he spoke to the representative and other municipalities have done this. Lime Energy is a sole source for National Grid. Parisi has spoken to Lime Energy as well, and they where to provide a letter to Parisi stating they are the sole source. The letter provided did not indicate that clearly. Parisi will be going to National Grid to see.

TB approves  
Lime  
Energy

**Morreale MOVED to accept Lime Energy proposal, subject to Attorney approval, for the replacement of the lights and balls in the Town Hall, Police Building, Senior Center and the Highway Garage, with the Town's portion, \$17,137.29, coming from the Hydro fund, Seconded by Bax and Carried 5 – 0.**

Legal

Public Hearing – Chapter 360 – Special Use

PH  
scheduled  
Chapter  
360

**Bax MOVED to hold a Public Hearing on Chapter 360 – Special Use, on Thursday, October 12 at 6:00 pm, Seconded by Geiben and Carried 5 – 0.**

Water District Resolutions

Seaman presented two additional Resolutions for consideration. This is the last major step in approving the creation and project of the Lewiston Water District. This final resolution to establish the district comes after the 30-day period has passed where no one circulated a petition for a referendum.

Final Order Establish District:

**Bax MOVED the Final Order Establishing District as follows, Seconded by Geiben:**

Water District  
Establish  
Resolution  
FINAL ORDER ESTABLISHING DISTRICT  
WHEREAS, the Town Board of the Town of Lewiston (herein called the “Town”), in the County of Niagara, New York, has caused GHD Engineers, competent engineers duly licensed by the State of New York, to prepare a map, plan and report dated May 22, 2017 for the proposed establishment of the Town of Lewiston Water District, in the Town, and construction of improvements therein, consisting of the construction and installation of approximately 43,800 lineal feet of new waterline

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to replace existing deteriorated piping that will be abandoned in place, including interconnections, hydrants, valves, water mains, borings, road crossings, stream crossings, a railroad crossing and other ancillary or related work in connection therewith, as further described in said map, plan and report (referred to herein as the "Water Improvement?"), which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, pursuant to the Order duly adopted on July 10, 2017, the Town Board determined to proceed with the proposed establishment of the District and the construction of the Water Improvement, and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for such improvements, the proposed method of

financing to be employed, the estimated cost of hook-up fees, if any, and the cost of the Water Improvement to the Typical Property, the fact that a map, plan and report describing the same are on file in the Town Clerk's office for public inspection and specifying July 24, 2017, at 6:00 o'clock P.M. (Prevailing Time) as the time when, and the Town Hall, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and construction of the Water Improvement, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12-A of the Town Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on July 24, 2017, commencing at 6:00 o'clock P.M. (Prevailing Time), at the Town Hall, 1375 Ridge Road, Lewiston, New York, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, the proposed establishment of the District and the construction of the Water Improvement; and

WHEREAS, the Town, as lead agent, has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law; and

WHEREAS, the Town Board, by resolution duly adopted August 14, 2017, determined that the notice of public hearing was published and posted as required by law and is otherwise sufficient, that all the property and property owners included within the proposed District are benefited thereby, that all the property and property owners benefited are included within the limits of the proposed District, and that is in the public interest to establish the District and construct the Water Improvement at the estimated maximum cost of \$10,200,000; and the Town Board approved the establishment of the District and the Water Improvement at a cost not to exceed \$10,200,000; and

WHEREAS, said resolution, adopted on August 14, 2017, was subject to permissive referendum and the notice setting forth the date of adoption of said resolution, which concisely stated the purpose and effect thereof, was duly posted and published as required by law, and no petition signed and acknowledged by the electors of the Town for their approval or disapproval has been filed with the Town Clerk within thirty days after the date of adoption thereof, or at any other time since said adoption; and

WHEREAS, the permission of the State Comptroller is not required because the estimated cost of the District and construction of the Water Improvement to the Typical Property (as defined in the Town Law) is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller;

Now, therefore, be it

ORDERED, that the District is hereby approved, to be known as the Town of Lewiston Water District, in the Town of Lewiston, situate wholly outside of any incorporated village or city, and bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND known as the Town of Lewiston, County of Niagara, State of New York, being all of Lots 10 through 29 of the New York State Reservation, plus Lot 1, Lots 4 through 8, Lots 11 through 15, lots 18 through 45 plus part of Lots 16 and 17 in Township 14, Range 9, plus Lots 33 through 49, Lots 53 through 57, Lots 62 through 64 in Township 14, Range 8 of the Holland Land Company's Survey and more particularly described as follows:

BEGINNING at the intersection of the northerly line of the Town of Wheatfield with the westerly line of the Town of Cambria; thence westerly along the northerly line of the Town of Wheatfield

and the Town of Niagara and the City of Niagara Falls to a point located at the easterly edge of the Niagara River; thence northerly along the easterly edge of the Niagara River as it winds and bends to a point located in the southerly line of the Village of Lewiston; thence easterly, northerly and westerly along the southerly, easterly and northerly lines of the Village of Lewiston to a point located on the easterly edge of the Niagara River; thence northerly along the easterly edge of the Niagara River as it winds and bends to a point located the southerly line of the Town of Porter; thence easterly along the southerly lines of the Town of Porter and the Town of Wilson to a point located on the westerly line of the Town of Cambria; thence southerly along the westerly line of the Town of Cambria to the place or point of beginning.

Excepting the area known as the Tuscarora Indian Reservation. and be it further, ORDERED, that the Town of Lewiston Water District is hereby established and the Water Improvement hereinabove referred to shall be constructed as set forth in the map, plan and report prepared by GHD Engineers, dated May 22, 2017, at a cost not to exceed \$10,200,000, which is planned to be financed by the issuance of \$10,200,000 bonds of the Town to finance said cost, and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District, in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable;

and be it further

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Niagara and file with the Department of Audit and Control in Albany, New York, copies of this Order, certified by said Town Clerk.

TB approves  
Resolution

**Carried 4 – 1.** (Morreale)

The Board needs to approve a Resolution regarding the bonding. This will authorize the Town to issue serial bonds for the funding of the project in the maximum amount of \$10,200,000.

Bonding  
Res.

**Bax MOVED to approve the Bond Resolution for the Town of Lewiston, NY, adopted September 25, 2017, appropriating \$10,200,000 for the establishment of the Town of Lewiston Water District and the construction of a water system therein, and authorizing the issuance of bonds in the principal amount of \$10,200,000 to finance said appropriation, as follows, Seconded by Geiben:**

WHEREAS, the Town Board of the Town of Lewiston (herein called “Town”), in the County of Niagara, New York, has caused GHD Engineers, competent engineers duly licensed by the State of New York, to prepare a map, plan and report dated May 22, 2017 for the proposed establishment of the Town of Lewiston Water District, in the Town, and construction of improvements therein, consisting of the construction and installation of approximately 43,800 lineal feet of new waterline to replace existing deteriorated piping that will be abandoned in place, including interconnections, hydrants, valves, water mains, borings, road crossings, stream crossings, a railroad crossing and other ancillary or related work in connection therewith, as further described in said map, plan and report (referred to herein as the “Water Improvement”), which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, a public hearing in the matter was duly held by the Town Board on July 24, 2017, commencing at 6:00 o’clock P.M. (Prevailing Time), at the Town Hall, 1375 Ridge Road, Lewiston, New York, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, the proposed establishment of the District and the construction of the Water Improvement; and

WHEREAS, the Town Board, by resolution duly adopted August 14, 2017, determined that the notice of public hearing was published and posted as required by law and is otherwise sufficient, that all the property and property owners included within the proposed District are benefited thereby, that all the property and property owners benefited are included within the limits of the proposed District, and that is in the public interest to establish the District and construct the Water Improvement at the estimated maximum cost of \$10,200,000; and the Town Board approved the establishment of the District and the Water Improvement at a cost not to exceed \$10,200,000; and WHEREAS, said resolution, adopted on August 14, 2017, was subject to permissive referendum and the notice setting forth the date of adoption of said resolution, which concisely stated the purpose and effect thereof, was duly posted and published as required by law, and no petition signed and acknowledged by the electors of the Town for their approval or disapproval has been



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filed with the Town Clerk within thirty days after the date of adoption thereof, or at any other time since said adoption; and

WHEREAS, the permission of the State Comptroller is not required because the estimated cost of the District and construction of the Water Improvement to the Typical Property (as defined in the Town Law) is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller; and

WHEREAS, said Town Board duly adopted a Final Order on September 25, 2017, establishing the District, therein designated as the Town of Lewiston Water District, in the Town of Lewiston, and ordered construction of a water system therein, at a cost not to exceed \$10,200,000;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF LEWISTON, IN THE COUNTY OF NIAGARA, NEW YORK (by favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of \$10,200,000 for the establishment of the Town of Lewiston Water District and construction of the Water Improvement, as described in the Recitals hereto, all in accordance with the map, plan and report prepared by GHD Engineers, engineers duly licensed by the State of New York, dated May 22, 2017, on file in the office of the Town Clerk and heretofore approved by the Town Board of the Town. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and to the financing thereof, is \$10,200,000. The plan of financing includes the issuance of \$10,200,000 bonds of the Town to finance said cost, and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District, in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of \$10,200,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared: (a) The period of probable usefulness of said object or purpose for which said bonds are authorized be issued, within the limitations of Section 11.00 a. 1 of the Law, is forty (40) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, 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

(c) such obligations are authorized in violation of the provisions of the constitution. Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in the “*Niagara Gazette*,” a newspaper having a general circulation in said Town, which newspaper is hereby designated as the official newspaper of the Town for such publication, together with the Town Clerk’s statutory notice in the form prescribed by Section 81.00 of the Local Finance Law of the State of New York.

#### ROLL CALL

Councilman Bax – Yea  
Councilwoman Ceretto – Yea  
Councilman Geiben – Yes  
Councilman Morreale – No  
Supervisor Broderick – Yea

TB approves  
 Boarding  
 Res.

#### Motion Carried 4 – 1. (Morreale)

#### Engineering

Lannon has been contacted by a member of the New York Power Authority. They are interested in placing a fire hydrant on Military Road to serve their guard house. They have requested, due to the Town’s knowledge of the pipes, that the Town undertake the project. Have a turnkey installation, upon which they will reimburse the Town for its efforts and costs. The cost is not known, there will be a bid process, and the Power Authority will approve. Lannon spoke to Townsend and he would prefer a contractor be hired.

Geiben said this will be a benefit to the Fireman.

Finance – Blazick requests budget transfers. In the past the Town makes budget transfers at the end of each year. By law budget adjustments are to be done before the expenditure is actually paid for.

This request is for the Recreation and Highway departments. There needs to be an increase in the budget on the revenue and the concessions. The effect on the bottom line of the budget is zero.

Budget  
 transferes  
 Highway  
 Recreation

Geiben MOVED to take \$10,000 from revenue and transfer \$5,000 into A00-1000-2020-0000 – Concession Revenue and \$5,000 into A00-7310-0402-0000 – Recreation Concessions, and transfer \$22,000 from DB0-5110-0100-0200 – Seasonal Help into DB0-5130-0400-0000, and transfer \$500 from DB0-1910-0400-0000 – Insurance into DB0-5110-0100-0100 – Out of Dept / Pers. Service Seconded by Bax and Carried 5 – 0.

Geiben asked Blazick to work with Garfinkel to find funds to purchase more microphones. Blazick said it is in the 2018 Budget. Geiben said look for it for this year. Blazick said it could be done out of the A-Fund Contingency.

A bill has been received from vendor ComDoc. It is not subject to the post-audit qualifications, but it is very late. The bill is \$364.10.

Com-Doc  
 payment  
 approved

Morreale MOVED to approve the payment of \$364.10 for ComDoc under Post Audit, Seconded by Bax and Carried 5 – 0.

Budget meetings with department heads have been scheduled for October 5, 2017, starting at 9:00 a.m. Geiben is not able to attend, therefore he has meet with Blazick regarding the departments requests. Broderick will reach out to the non-profits to meet with the Board.

#### COUNCILMAN BAX

Sewer Credit – Conway – This request fits Town policy.

REGULAR TOWN BOARD MEETING

September 25, 2017

6:00 P.M.

<sup>Conway</sup> ~~for~~ **Bax MOVED to approve the credit of \$53.15 for the sewer portion for Conway – Sara Court,**  
~~sewer~~ **Seconded Geiben and Carried 5 – 0.**  
~~approved~~

COUNCIL WOMAN CERETTO - nothing

COUNCILMAN GEIBEN

Grass Cutting – taxes

~~grass~~ **Geiben MOVED to approve the placement of grass cutting fees in the amount of \$5,418.75,**  
~~cutting~~ **and an administration fee of \$2,800 onto 2018 Town and County tax bills, Seconded by**  
~~ontaxes~~ **Morreale and Carried 5 – 0.**

Geiben reminded the Board there is a need for an Environmental Commission secretary. In the past it has been a Town employee. No employee is interested. The Town may have to seek outside help. Parisi was asked to look into this. It needs to be determined how to pay this person and giving access to the building.

COUNCILMAN MORREALE – Agenda item pulled

RESIDENTS STATEMENTS

Correa, Nancy – Riverwalk Drive – Correa commends the Board, in general, especially Mr. Morreale. He must have done an awful lot of homework to bring up the questions regarding the Rubino project.

Correa thanked Mr. Bax for requesting the Rubino project be tabled so the Board can visit the site. This should be done for each and every development that comes before the Board. Correa has spoken regarding whether or not Lewiston needs more housing. How many units still remain to be built on, in approved projects? This makes a difference when considering approving new housing. A moratorium should be considered so the Board can consider whether or not there is a need. Mr. Rubino said there is a need because his phone is ringing.

Correa has a concern that there are no minutes to the Environmental Commission's last couple of meetings. It is an important Commission and the residents want to know what is going on.

Correa said the department that is headed by Tim Masters is doing a fantastic job. Anytime Correa has questions, even though it's a FOIL, Correa gets her answers. Thank you very much to Mr. Masters, Correa appreciates this. The staff is wonderful.

Correa mentioned to the Board that Mr. Freeman will be attending an event sponsored by the Buffalo Niagara Coalition for Open Government. The invitation is intended for everyone. Correa makes a special invite to Attorney Parisi.

Glasgow, Paulette – The Circle – In regards to Bronson Drive, it has been asked if a housing study had been done. The Engineer turned it down flat, saying that is personal information. If the phones are ringing off the hook, why not share this. Glasgow suggests the Board pursue looking at the study.

The Lemke Development, off of Upper Mountain Road, is a gated community. Glasgow was under the impression there would be another road coming into Bronson Drive. If the Lemke development, in the future, decides to develop, there would be additional traffic coming on to Bronson Drive.

There is a resident who will have the lights coming right into his windows. Glasgow said this needs to be addressed.

If the Board goes forward with this project, and the road comes out on Bronson Drive, people are going to be coming right out and headlights will be going squarely into the house right across the street.

9:00 am in the morning to present a multi-million dollar budget is not very good. People go to work, school, it is not very fair.

Discussion on the presentation of the 2018 Tentative Budget.

2018 Budget presentation set  
**Broderick MOVED to hold a Special Meeting for the purpose of the presentation of the 2018 Tentative Budget on Monday October 2, 2017 at 5:00 pm, Seconded by Morreale and Carried 5 – 0.**

**Geiben MOVED to enter into Executive Session for potential litigation, Seconded by Bax and Carried 5 – 0. (7:30 pm)**

**PRESENT:** Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad Finance Officer Blazick; Attorneys Catalano, Parisi

Issues discussed: Potential litigation regarding damage to resident's property and consult with Attorney.

**Bax MOVED to exit Executive Session, Seconded by Geiben and Carried 5 – 0. (7:57 pm)**

No action taken.

**Bax MOVED to adjourn the meeting Seconded by Morreale and Carried 5 – 0. (7:58 pm)**

Transcribed and Respectfully submitted by:



Donna R. Garfinkel  
Town Clerk