

Energy Cooperative of America, Inc. Presentation

March 26, 2012 5:30 p.m.

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorney Dowd; Building Inspector Masters; WWTP Chief Oper. Ritter; Highway Superintendent Janese; Police Chief Salada; Finance Officer Johnson; Engineer Smith, 4 Press; 8 Residents and Clerk Donna Garfinkel

Mr. Mascaro, Representative for Energy Cooperative of America, Inc., was unable to get necessary materials needed for the presentation. This will be rescheduled.

Mr. Paonessa, Public Relations representative from NYPA informed Sup. Reiter, that as a result of discussions, they have agreed to give Upper Mountain Fire Company \$20,000 and Lewiston Fire Company #1 and #2, \$2,000.

Board members thought the Town / Village Joint meeting earlier this evening, was great. Reiter appreciates the efforts of both boards, and feels Lewiston is moving in the right direction.

Both Boards will move forward with negotiations on the current contract between the Town and Village and funding source for the Police Department.

Bax feels the change to the Police Commission streamlines the chain of command; therefore management of the department will be strong.

Winkley requests the Clerk forward letters to Alfred Soluri, Henry Sloma and Robert S'Dao thanking them for their time on the Commission.

Marra MOVED to adjourn the meeting, Seconded by Bax and Carried 5 – 0. (5:35 p.m.)

Joseph Davis State Park LDC Presentation

March 26, 2012

5:45 p.m.

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorney Dowd; Building Inspector Masters; WWTP Chief Oper. Ritter; Highway Superintendent Janese; Police Chief Salada; Finance Officer Johnson; Engineer Smith, 4 Press; 25 Residents and Clerk Donna Garfinkel

Reiter distributed a letter from New York State Office of Parks, Recreation and Historic Preservation (NYSOPR), along with the Consultant's Report on Phase I Capital Improvements for Joseph Davis State Park (JDSP) dated March 26, 2012.

There will be a Public Information meeting on April 23rd, 6:00 p.m., in regards to the JDSP, followed by the Regular Town Board meeting.

Joseph Davis State Park is being considered for Mr. Nik Wallenda to practice for his walk across the falls.

Mr. Louis Giardino, President & CEO, CEA International, Management Consultant for the Joseph Davis State Park Local Development Corp. was present to update the Board and residents on the progress at JDSP.

After the Town's Greenway submission, the Local Development Corporation (LDC) developed a plan to submit to The Office of Parks and Recreation Preservation. This is a requirement of the current operating lease in terms of any Capital Improvements that will be considered. As part of the plan, cost estimates, budgets of operation, and specific details relative to the type of improvement planned, need to be prepared.

In this presentation the goal has been to try and show, the new plan, which has been talked about for over a year, is consistent with the 2004 Adopted Master Plan for the Park. The 2004 Master Plan took many years and went through several different renditions, and under very different circumstances. Different economic & operating circumstances. It has been quite a challenge to try and demonstrate that there is some need for revision to the plan.

Several meetings and presentations have taken place with NYSP. The response was received this afternoon; therefore has not been reviewed. They are asking for more information on the specifics of the plan for the park, and comments on what has already taken place. They like what the Town is doing, but they may require some supplemental environmental reviews.

The former Master Plan shows a kayak launch along the river front. The restriction on this was funding. In the new proposed Capital I Plan, there is a boat launch. That could raise environmental concerns if not approached properly.

There are three major areas the LDC is working on. The river-front, day area (middle of park), and the central area (bird watching and natural trails).

At this time the Town is proposing to spend \$5.7 million on improvements. This is a significant issue when it comes to planning. There are approximately 8.5 million people that live within 1-hour drive to the Park; it is well-worth the consideration.

When the operating agreement between the Town and State Parks was entered into, each had a different set of goals and objectives. The Town entered into a 10-year lease, with a 10-year option. The lease is currently under negotiations. There is an amendment to change the term of the lease from 10-years to 40-years. This sounds like an easy thing to accomplish, procedurally it is not. NY Parks has to review the terms; they need to reason out the rationale for extending the terms. The LDC has been given no indication that State Parks is against the 40-years.

Going beyond 40-years or transfer of ownership is quite a different thing. It has been mentioned publicly about investing funds into the Park without ownership. Ownership could take place under an alienation and federal conversion, but it is a very complex and lengthy process. Hardly seems necessary if a 40-year lease is agreed upon.

In terms of what has already taken place at the Park, with resources available to the Town, a great deal has taken place. One of the capital improvement projects is an adapted reuse of the former aquatic center.

By utilizing excess capacity within the Town forces, a great deal has been accomplished with cleaning up unsafe conditions, removing buildings and debris. The Town has provided a safe environment for visitors.

In the Capital I Improvement project, all resources that have been expended should not fall on taxpayers. They are totally reimbursable through Greenway Commission funding. Therefore, at this time any resources that are being committed toward that project will be included as a capital improvement, because they are a necessary part of those capital improvements. The benefit of doing them now is to get a jump on the lengthy process that the Town has been forced to follow with State Parks in order to comply with the current operating agreement.

The use of resources to accomplish things that need to be done to guarantee there is something out there to use, has always been the mission of the LDC. It would not be necessary to have an LDC if there wasn't an extensive capital improvement project planned. On the other hand, it is a very efficient way to accomplish these types of projects, expeditiously, in a legal fashion, and allowing the LDC to move forward.

The LDC has been operating for the last year, after completing items to make them organizationally compliant with the law. Developing a website, reporting to the ABO; and holding regular public meetings are required. On the LDC website, the procurement policy, whistle blower policy, operating budget and all policies are available. The site is www.jdspldc.org.

Bax believes the project can be a viable and wonderful thing. The primary concern is the contract now in place. It only allows the Town to mow the lawn, without making any capital improvement, but more importantly it does not allow the Town to take any profits. Every dollar the Town receives out of the operation, has to be reinvested into State property. If the Town takes the \$5.7 million, invests in a wonderful plan, the only way to get the money back is through in-kind services. Bax believes without the ability to take profits out of the facility, from the Town's perspective, or without the possibility of doing the alienation process, the concern is

the Town is already at the point where if this is built, in our minds we've missed the question, "Should we move forward if we don't own it". Expanding the lease to 40-years, in Bax's mind, only allows the Town to mow the lawn for 40-years.

People that Bax has spoken to question, "Would the Town invest, whether Greenway dollars or Town dollars, in this project if the Town does not own the property". People out there do not want to spend the money. They want some sort of guarantee.

Giardino said the lease would go further than that. Bax questioned if it allowed the Town to recoup profit on the project?

Giardino said a lease-hold mortgage clause has been introduced. Conceptually there is talk of leveraging annual payments to create bonds. In terms of profits, there are no profits. The return of the revenues, even the revenues that have been expended at this point and time, are reimbursable, even under the current agreement, if Greenway dollars are used to finance this.

Giardino said no money will be expended toward those capital improvements, other than the organization items that are included, until those agreements have been reached. That is the way the Supervisor made the presentation to the Greenway Commission.

Giardino said the State is reluctant to do a segmented plan, they may have to. If the environmental reviews, for example on the boat launch, disclose that the costs will be prohibitive to do it in an environmentally safe way, then perhaps the Board may decide not to do that project.

The State has not said they will not sell the Park to the Town. The process is very complex. It would need to go through an alienation and conversion process. It needs to do that because the State has made prior agreements with the Federal Government on funding.

Reiter said a Greenway Commission member is former Board member Sean Edwards. He spoke highly in support of the project.

Reiter said maybe the Town was a little pre-mature in discussing what the Town would like to do. The minute you tell people what you want to do, you expose yourself to a lot of criticism. In order to get approvals you have to do that.

Reiter feels in order to get the funding a longer lease should be sought. If the lease can't be improved there is no sense in moving forward. The State moves tediously slow.

Reiter is frustrated with comments that the Board is not being transparent on this issue. There is a board outlining the plan in his office and the Senior Center. All LCD meetings are public, anyone can attend.

Bax said the Supervisor should not be the only one to take the blame for expending the money; all Board members have signed vouchers. All Board members need to do the investigating on this. The Board is under the bus with the Supervisor.

Reiter appreciates Bax's comments very much.

Bax does not trust the State either, with all do respect to the officials in Albany. If ever there was a time, when the State would negotiate with the Town, it is when they have a multi-hundred acre parcel that they can't afford to mow. Fast forward \$5.7 million, and now ask the State to transfer the parcel for a \$1. The Town has done all the leg work, whether Greenway money or tax payers money, it is the Towns project. Bax is in support of the project; it is one of the most ambitious projects ever at this level of government. Bax appreciates and respects that, just wants to do it the right way.

Reiter said the State has had these plans for almost a year. What business would survive if they had to wait a year? The community is very blessed to have Greenway funding. Why is it taking the State so long, when the goals are so clear cut? The benefit to the community is so clear, and the Town is making so much progress. The Town has shown they can do it.

Reiter welcomes the press to go to the Park to see what is being accomplished for Lewiston and the region.

If the State fails to allow the Town to move forward, and takes so long, it is time for the Town to move on. The funds can be used for other parks.

Palmer agrees with both Reiter and Bax. This all comes down to communication. At times the Board has felt it is not getting all necessary information. As a Board, a monthly report should be submitted of the expenditures proposed by the LDC toward this goal. Palmer doesn't want to spend money on a project unless the Town gets a long-term lease.

Marra feels the Board has a choice. The Town can leave 375-acres of parkland and 1,200 feet of beautiful river-front access to become inaccessible to residents, or the Town can develop the park.

People are under the impression the Town is borrowing/bonding the \$5.7 million. That is not the case. Funding originates with the NY Power Authority and Greenway funds.

Marra feels if the Town is stuck with the current lease, he would walk away without hesitation. With the 40-year lease there maybe an opportunity for alienation and for the Town to gain control of the park. That is not out of the question.

Senator Maziarz and Assemblyman Ceretto support this project. Maziarz has said this is the best Greenway project ever proposed. The Audubon Society would like to have an Education Center in the park. The Niagara River Anglers have lended their support.

Winkley has attended Greenway Commission hearings when the Supervisor had to fight for other projects and they have all turned out well. At the meetings for this project there was no voice against. The Greenway Commission said it is exactly what they are looking for. It is on the waterfront, a park that is not used, and is dangerous in its current state.

The Town is moving fast, and the State is moving slow. Winkley appreciates residents coming out, commenting and questioning the Board, because this may make the State move faster. Winkley looks forward to enjoying the park. This will improve the Town.

Bax is hearing from the Town Board that it is the right project, in the right place; Bax just questions if it is under the right premise? The crossroad has been reached, there is so much on the table and how much further is the Town willing to go. The Town has invested a significant amount of funds, out of this year's budget, to make this project a reality. Not only a distance reality, it is as real as this spring. The Town is ready to go and if there is no commitment from the State, the Town will be forced into giving the money back.

Winkley feels money spent so far has not hurt the park.

Bax said it has hurt the Town budget.

Reiter said no, monies expended so far, can be reimbursed through Greenway accounts.

Bax asked if that is even if the Town doesn't go forward with the project. Reiter said yes.

Reiter is very disappointed in the State. The lease was discussed several weeks ago; they say they will get back to us. The response came today. The Town is at a point where it needs to decide. The Board needs to come to a consensus as to how much further to go. There is a 30-day out clause. Reiter would not pay to pave the parking lot without a 40-year lease. It would be a shame to walk away.

Giardino said the Town has good State representation. Senator Maziarz met with the Commissioner of Parks to discuss the project and the process. The Commissioner agreed to have a weekly telephone conference with the Town, Senator Maziarz, and Deputy Commissioners, to monitor the progress until it becomes a deal. A committee has been formed in Albany, which includes legal, environmental, concession and the Director of Operations to review this.

Giardino apologizes for not updating the Board more often, but LDC did not feel they had enough reliable progress. Giardino can be at any meeting the Board wishes. LDC meets the third Tuesday of the month at the Lewiston Senior Center.

Press representatives asked to let the public that know the Town is looking for comments on the project.

Marra MOVED to adjourn, Seconded by Palmer and Carried 5 – 0. (6:45 p.m.)

Respectfully Submitted and Transcribed by:

Donna Garfinkel
Deputy Town Clerk

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorney Dowd; Building Inspector Masters; WWTP Chief Oper. Ritter; Highway Superintendent Janese; Police Chief Salada; Finance Officer Johnson; Engineer Smith, 4 Press; 20 Residents and Clerk Donna Garfinkel

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

TWO-MINUTE STATEMENTS BY RESIDENTS

Supervisor asked if any resident wished to address the Board.

Warren, Rose Mary – 5842 Griffin Street – Councilmen Winkley and Marra told Warren’s husband they would stop by and see the 160-foot topsoil filled with stones.

Warren thought all Town residents would be treated equally by the Town Board, but that is not so. Supervisor Reiter was asked if he worked from 9 – 5 and another Board member said the Board does not answer questions. Yet the next person asked a question and got a courtesy answer.

Warren inquired about the Supervisors hours because there is a rumor the 2007 white Town pick-up has been seen outside the Town of Lewiston. This is a valid question, because tax-dollars paid for the truck and the gasoline it uses. To put the rumor to rest, Warren brought in her mothers bible and was going to ask the Supervisor to put his right hand on it to show the 2007 truck is used for Town business only. Warren changed her mind; the Supervisor will know what is right and wrong in the use of the 2007 Town truck.

Glasgow, Paulette – 836 The Circle - Glasgow sent Giardino several questions and got a “not very nice” response. The Board talks about transparency; who does Glasgow get the answer to these questions from? When does the public get to ask questions?

Reiter said a meeting has been scheduled for April 23rd. If Glasgow does not feel she has been answered correctly, that would be the opportunity to ask them in public.

It has been said Senator Maziarz was at a Greenway meeting and was in favor of the project. No one will dispute the park has been neglected. When the Senator appeared there, he requested a full audit of all Greenway funding. Glasgow was under the impression that that is what Bax was going to ask for.

Bax said he received an accounting sheet from the Finance Officer.

Glasgow said Senator Maziarz asked for an independent audit, not connected to the Town.

Finance Officer Johnson said no Greenway money has gone to the Joe Davis project yet. The commitment of \$450,000 is to pay back the bond. An outside audit has been done. Reiter sent a response for all Greenway funded projects to date.

Marra said Senator Maziarz requested an audit on every Greenway projects, not just the Town.

Glasgow’s question is, as a Town of Lewiston resident who has already paid, over the course of the last year, a half a million dollars; it is owed to the public to have a full audit of every dime used for Joseph Davis only.

Glasgow asked several times and will ask again; “Is there a contract between the Town of Lewiston and the LDC, to act on the Towns behalf”?

Bax said there is a Mission Statement. Glasgow said a Mission Statement is not a contract.

Glasgow has a recent audit by the State Comptroller for the Town of Watertown, which parallels exactly to this.

Winkley said the Board does not have any facts as to what Glasgow is speaking of. These questions can be asked of the LDC directly on the 23rd.

Glasgow said this question is addressed to the Board. The Town has to generate the contract. The Town is spending public money. Glasgow feels funding the LDC is a violation.

Reiter said they have not violated anything; it has not been funded yet. The Town is paying and will be reimbursed.

Glasgow read the State Comptrollers findings: (Town of Watertown)

The State Constitution prohibits municipalities from making gifts or loans to or in aid of private individuals, corporations, associations without a dually authorized contractual arrangement under which the Town (Watertown), received fair and equitable consideration for those services.

The Town has funded the LDC. The Town has till next month to sign the contract.

Braun, Rob – 4847 Meyers Hill Road – Braun is asking for action on a Special Use Permit issued to 4842 Meyers Hill Road. A Public Hearing was scheduled, then pulled due to an issue between two boards and who was going to act. Braun submitted a letter of the circumstances happening at the property. There are items that exceed what the original intention of the permit was.

Masters said current Town Code states Special Use Permits go to Planning Board. The old Code, prior to last April, states the Zoning Board of Appeals. The issue came up as to which Board needs to review.

Reiter will look into this and respond back to Mr. Braun.

AGENDA APPROVAL

Bax asked for an executive session for highway contract issues, and Palmer asked for the addition of appointment of a Police Officer.

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

APPROVAL OF MINUTES

Bax MOVED to approve PH – LSSD- 2/13/12; PH – LWIA #2 – 2/13/12; TB Worksession – 2/13/12; RTB – 2/27/12 and RTB 3/1/2012, Seconded by Marra and Carried 5 – 0.

POST AUDIT PAYMENT

Bax MOVED approval of the following Post Audit: Home Depot – \$199.27; Sam’s Club – \$1,260.56; DeLage Landen – \$116.10, Seconded by Winkley and Carried 5 – 0

PENDING BUSINESS

Call for a Public Hearing – Re-Zoning request 2938 Saunders Settlement Road – Tim Horton’s property.

This was tabled at a previous Town Board meeting. If no action is taken, the application is denied. Masters to send a letter to the applicant asking them to approve the extension.

Marra MOVED to hold a Public Hearing on May 14th – 5:00 p.m. on the Re-Zoning of 2938 Saunders Settlement Road, Seconded by Bax and Carried 5 – 0.

OLD BUSINESS

NFCC – Emerald Ash Borer Trees

John Sharpe, Engineer Assistant meet with Mr. Holthouse, Superintendent of Niagara Falls County Club and an entomologist from DEC regarding the trees. There are approximately 15 to 20 trees, on property owned by the Town, which extends to a sewer easement to Military Road.

Mr. Holthouse has requested they be removed. Holthouse will take the trees down, at the Clubs expense. Once the trees are down they need to be ground-up, then burned. Covanta Energy in Niagara Falls will take the wood chips to burn, at no cost to the Town. Reiter would gladly send Parks personnel to help.

Bax MOVED the authorization of the removal of the trees, subject to the execution of the indemnification, Seconded by Winkley and Carried 5 – 0.

Street Light Request – Forest Road

Mary Lou Hallatt, 5042 Forest Road submitted a letter requesting a street light. In general on Forest Road there are lights placed every two/three houses. There is a section of approximately seven houses where there is no light.

This was referred to the Lighting Committee; Chairman John Barber visited the area and concurred that a street light should be placed on the pole in front of 5042 Forest Road

Palmer MOVED to forward request to National Grid, Seconded by Marra and Carried 5 – 0.

CLERK'S CORRESPONDENCE

Three proposals were submitted for carpeting in the hall of the Town Hall. Upon review by Carol Brandon and Michael Johnson, they request the quote in the amount of \$4,000 from Mooradian Rug Company be awarded.

Marra MOVED accept the quote from Mooradian Rug Company in the amount of \$4,000, Seconded by Palmer

Mooradian was the lowest responsible bidder.

Carried 5 – 0.

SUPERVISOR REITER

LEGAL – Lewiston Water Improvement Area No. 2 – Public Interest Order

Marra MOVED to approve the Public Interest Order – Lewiston Water Improvement Area No. 2, Seconded by Bax and Carried 5 – 0

Dowd said he and Marra have been working on the Zoning Ordinance in regards to Unregistered Vehicles. There are concerns on what kind of teeth they have for enforcement. Will report back.

Reiter has been in contact with Mr. Nowak, Teamsters representative, requesting a meeting to begin union negotiations.

FINANCE

Johnson to work with Dowd regarding bonding of the Water Treatment Plant upgrades.

STANDARD WORK DAY AND REPORTING RESOLUTION

Changes made to the report, therefore the Board needs to approve the Resolution and authorize the Town Clerk to sign.

Marra MOVED to authorize the Town Clerk to sign the Standard Work Day and Reporting Resolution, Seconded by Bax and Carried 5 – 0.

Reiter reminded all again, of a Public Information meeting on Joseph Davis State Park scheduled for April 23rd, at 6:00 p.m.

COUNCILMAN MARRA

A resident living on Military Road across from the newly updated Reservoir Park, is requesting a reduced speed limit. People park on the side of the road and it is difficult to get in and out of her driveway. The speed limit is 55 mph, and she feels it is too fast with all the new activity.

Marra MOVED to petition New York State Dept. of Transportation to conduct a speed study on Military Road adjacent to Reservoir State Park, along with possibly no parking on Military Road, Seconded by Winkley and Carried 5 – 0.

COUNCILMAN PALMER

Police Chief Salada interviewed candidates for a part-time position available on the Police Department.

Palmer MOVED, based on Police Chief Salada's recommendation, to appoint Vanik Aloian to the Part-time position, Seconded by Winkley and Carried 5 – 0.

COUNCILMAN WINKLEY

Winkley has spoken to Chief Salada about the “no passing on the right” at the intersection of Model City Road and Ridge Road. Salada to address.

Upper Mountain Fire Company has additions to the roster.

Winkley MOVED the addition of Ryan Clark, Matthew Pogrebski, Bethany Zakrzewski and Ashley Smith to the Upper Mountain Fire Company, Seconded by Bax and Carried 5 – 0

Marra MOVED to enter into Executive Session to discuss contracts, Seconded by Palmer and Carried 5 – 0. (7:35 p.m.)

EXECUTIVE SESSION

PRESENT: Supervisor Reiter; Councilmembers Bax, Marra, Palmer and Winkley; Deputy Supervisor Catlin; Town Attorney Dowd and Highway Superintendent Janese

Discussion on Paving Contracts for summer of 2012 and pipe jobs in front of houses on State Roads.

Bax MOVED to exit Executive Session and adjourn meeting, Seconded by Marra and Carried 5 – 0.

Executive Session Minutes by Supervisor Reiter

Respectfully Transcribed and Submitted by:

Donna Garfinkel
Deputy Town Clerk