

Present: Sup. S. Reiter; Council Members M. Marra, E. Palmer & R. Winkley; Dep. Sup. G. Catlin; Town Attorneys M. Dowd & M. Davis; Bldg. Insp. T. Masters; Adm. Op. J. Ritter; Highway Supt. D. Janese Budget Officer M. Johnson; Police Chief C. Salada; Eng. R. Smith and Town Clerk C. Brandon.

Excused: Councilman A. Bax

Also present: 2 press reps and 12 residents.

The Supervisor opened the meeting at 6:00 p.m. followed by the Pledge of Allegiance. The Supervisor recognized former Assemblyman Joseph Pillittere and expressed the Town's condolences on the passing of his wife, along with Clerk Lisa Rizzo's mother & DCO David Sherriff's grandmother. A moment of silent reflection was offered.

RESIDENTS:

David Milleville of 2598 Saunders Settlement Road. My concern to the Town Board is the drainage in the Town of Lewiston and surrounding areas. I am wondering what the budget is for the drainage. We haven't had the drainage taken care of....I am a farmer...and we farm in Sanborn & Lewiston. It seems to be that there is not enough money or no money as far as cleaning the ditches in the Town and that reflects onto our farm property. Just recently we purchase the Kroening farm and we are doing a lot of tiling there and the ditches are not clean and we have had to clean some ourselves. We are hoping the Town will help us out with cleaning the rest of it which is the Town's responsibility. Where is the budget and where did it go? I don't see you are taking care of the farmers.

Reiter: I am going to ask you to discuss that with the Highway Supt. first and if he has a solution then the two of us and the Town Board can meet on that.

David Milleville said he had met with him (Mr. Janese) and he tells me he does not have the money in the budget. This is why I came here to make it known that we need to do something in the Town. It seems to me that Lewiston has fallen behind in taking care of the ditches.

AGENDA:

Marra: Parks & Recreation issue.

Reiter: I have a police matter.

Palmer MOVED to accept the amended Agenda as presented. Seconded by Winkley and carried 4-0.

MINUTES:

Marra MOVED to accept the RTBM minutes of July 23, 2012. Seconded by Winkley and carried 4-0.

ABSTRACT:

Marra MOVED to approve the regular Abstract of Claims # 2698 to # 3202 and recommend payment in the amount of \$477,024.03 plus a Post Audit of \$293,944.91. Seconded by Palmer and carried 4-0.

POST AUDITS:

Marra MOVED for permission to include the following vouchers for a Post Audit Payment; Home Depot \$621.85; Sam's Club \$2255.86; LEAF \$455.80; Mountain Glacier \$18.94; DeLage Landen \$232.20 and Historical Association of Lewiston \$25,000. Seconded by Palmer.

Reiter: The \$25,000 for the Historical Association is for the celebration of the Battle of Queenston Heights which will be October 12-14th at Academy Park.

Marra: The 5th graders will come on that Friday for an education class on the War of 1812.

Reiter: I think in September we should add that as part of the agenda so the residents can see what is going on at Queenston Heights.

On the Motion, carried 4-0.

PENDING BUSINESS:

Noise Ordinance:

Dowd: I did provide a proposal of a noise ordinance to Councilman Winkley and Chief Salada and some revisions were made. I expect a final draft for the work session consideration.

Legacy Drive:

Dowd: I don't think that we are ready to take action tonight. I know that a request was made of the estate of Mr. Massaro to show some security improvements and an additional fund that they are going to need for some applications and additional work related to the road dedication. I have proof that those funds are available and I think we are probably in a position next month to precede with the actual condemnation proceedings. It does not appear though that the parties that own the property have worked everything out so we can proceed.

Backup Generators:

Smith: I am awaiting approval from the NYS Education Department.

Reiter: The only generators that we are concerned about are the one at the Police Station.

CORRESPONDENCE:

Item #1: Kline Road Cemetery;

Brandon: You have a letter regarding repairs at the Kline Road Cemetery. A resident came before the Board previously regarding the repair to certain monuments. John Sharpe has received a quote from Niagara Monument to repair the large monument with a cost of \$2315.00. It has also been determined that there are two War of 1812 veterans buried at the cemetery. We are requesting that 2 markers at a cost of \$375.00 each be placed at their graves. Total cost would be \$3065.00 with funds to come from H-27.

Marra MOVED that repairs and markers at the Kline Road Cemetery in the amount of \$3065.00 be approved. Seconded by Winkley and carried 4-0.

Reiter complimented Mr. Sharpe, Mr. Martinez, Ms. Brandon and the Parks Dept. for cleaning up the area.

Brandon said they would be looking for assistance in maintaining the cemetery perhaps with volunteers such as the boy scouts etc.

Item #2: Letter from Ronald Catchpole;

There are dump trucks hauling clay from Cloy's Slaughter House on Route 104 to CECOS in Niagara Falls, NY using Townline Road. This has been going on for over 4 years. Nothing is being done. The letter was distributed to the Town Board, Police Dept., Highway Dept. and the Bldg. Dept.

Reiter: I understand Chief Salada that you have met with Mr. Catchpole.

Salada: I explained as far as the speeding end of it. We have been up there every day at different times of the day and we have written tickets. He was pleased to see that.

REITER:

Legal:

Dowd: I have a few matters that are listed under the Councilman's agenda.

Engineering:

Ryan: In regard to the Sanborn Sewer Extension Project, we recommend that the Town Board award to the low bidder, Fairway Contracting of Orchard Park in the amount of \$299,048.28. This was lower than our estimate.

Reiter: I understand that Fairway Contracting was the contractor for the water line on Elm/Annover and for the public's knowledge and for the minutes, he has stated that he will finish the landscaping (lawn areas).

Smith: He will reseed the areas affected by the work with completion no later than September 28th. It is in his maintenance bond and the project has not been closed out.

Marra MOVED to award the Extension of Existing Sanitary Facilities in Sanborn to Fairway Contracting in the amount of \$299,048.28 to be funded with bond money. Seconded by Palmer and carried 4-0.

Niagara County Plan Review Fee Payment:

Smith: I asked the Board to approve a payment of \$220.00 to the NCHD for the review of the plans and specs for the referenced project.

Motion made by Palmer to approve the payment of \$220.00 to the NCHD. Seconded by Winkley and carried 4-0.

Riverwalk Sidewalks:

Smith asked for formal approval to go out to bid for the sidewalk improvements.

Dowd: We have money in an escrow account. I have communicated with the contractor who put the money in escrow and learned that they are not objecting to the use of the funds at all. I believe that the estimate is lower than the escrow amount. How much of the sidewalks you decide to do is up to you.

Johnson stated that he was not sure if there was enough money in there to include the "soft" costs.

Dowd: As I understand it, the contractor was supposed to put all the sidewalks in and it wasn't done in a few years. It was not done and some of them are broken and need to be repaired. You have the latitude to do the repairs and installation or perhaps just the repairs or whatever is fit.

Smith stated that he estimated \$17,000 and we have \$21,000.

Winkley MOVED to go out to bid for the repairs to the sidewalks at the Riverwalk Subdivision. Seconded by Palmer and carried 4-0.

FINANCE:

Johnson: We had a server breakdown recently in our computer system. We had to expend money in our data process account. I need to transfer \$20,000 from B1990.0400 to B1680.0400. It will also cover the first installment to the new software company.

Marra MOVED to transfer \$20,000 from B1990.0400 to B1680.0400. Seconded by Palmer and carried 4-0.

Reiter: At the work session on Sept. 10th, Pat Brown our auditor will review the 2011 audit. After that work session, the Board will discuss whether we will continue with work sessions on an "as needed" basis.

Johnson stated that he had e-mailed everybody the draft of that review.

PERSONNEL:

Reiter: We received a letter from Sandra Wizner who plans to retire on August 30th from the Recreation Dept. Clerk to send letter with regrets.

Marra MOVED to accept the resignation of Sandra Wizner effective August 30, 2012. Seconded by Palmer and carried 4-0.

RECYCLING:

Reiter asked that the Board authorize Mr. Rotella to apply for any grants for recycling totes. We recently ordered 500 recycling bins for \$4000.

Brandon stated that in the event that you purchase recycling totes and you are on the list with NYS you could be reimbursed 50% of the cost. However, you may wait years to get to the top of the list.

Reiter stated that the totes are larger and it would be an every two week pickup. There would be less trucks on the road.

Marra MOVED that Mr. B. Rotella, Grant Writer apply for a grant for the purchase of recycling totes. Seconded Palmer and carried 4-0.

POLICE MATTERS:

Reiter: In order to put someone in the Police Academy, we have to sponsor and hire the individual for a short period of time. This is to keep our police force personnel as needed.

Palmer asked if we were hiring someone additionally. (No, only so that he can attend the academy).

Palmer MOVED to appoint Jeffrey S. Bissell as a part time police officer in order to attend the Police Academy at Niagara University. Seconded by Marra and carried 4-0.

JOSEPH DAVIS STATE PARK:

Reiter: The JDLDC has determined that our Town Engineers, Nussbaumer & Clarke should be awarded the job of designing and developing and do the SEQR work for a campground to be located at the park.

Marra MOVED that Nussbaumer & Clarke Inc. design, develop and prepare the SEQR for a campground at Joseph Davis Park. Seconded by Palmer and carried 4-0.

Reiter: Also, at the JDLDC meeting they recommended that paving be done on the two large parking lots and ½ circle lot with Ken Young Paving being the low bidder at \$189,000. Funds will come from Greenway funds which we have not received to date and no bonding has taken place either.

Palmer MOVED that Ken Young Paving be awarded the paving contract at Joseph Davis Park at a cost of \$189,000 with funds to come from Greenway funds. Seconded by Marra and carried 4-0.

BAX (Presented by Councilman Palmer)

Highway Matters:

Palmer: Is the 284 Agreement ready to go?

Janese: I have the contract drawn up and it needs to be signed by the Board and myself. We can act on it at the next meeting. I will put a copy in your boxes. The roads will be Dickersonville and Bridgeman Roads.

776 Michele Court:

Janese: It is a greenspace issue with a tree behind the home and owner feels the tree is a hazard.

5376 Annover Road:

Janese: A drainage issue on private property, but it is drainage that the Town installed. The owner states it has failed. I would like permission to look at this and if it is town drainage that has failed, repair it.

Reiter: Absolutely.

Elm Street Topsoil:

Janese said he spoke with Mrs. R.M. Warren and it will be resolved when the weather is cooler.

Town Parcel Executive Session:

Johnson: This is a contractual item that needs to be discussed in executive session and possible action at the work session. (Country Club property).

Winkley MOVED to enter into a Executive Session at the end of this meeting to discuss a contractual item. Seconded Palmer and carried 4-0.

Tower Request-Raby Property:

Reiter: Mr. Raby, as far as we can see at this time, you may have been misinformed by the Tower Cmte. We will work with the Building Inspector to get the proper forms to you. I believe you may have to do a site review to show us where the tower is going to be and see that it meets all specs as far as safety etc. Then we would be able to grant your request.

Padma Kasthurirangan, Engineer with Niagara Wind & Solar Inc. introduced herself.

Reiter: I think what should be done, is that you get all of that information to our Building Inspector and then at the September meeting we will take care of it.

Padma Kasthurirangan said we will need a SEQR done for the NYSERTA process. According to Ag & Markets, the party does not require a SEQR but NYSERTA requires it. So, I request the Town to be the lead agency and authorize SEQR also.

Reiter: You are asking to the Town to be lead agency at this time? (Yes) But we are not going to take action on the SEQR tonight.

Winkley MOVED that the Town of Lewiston be declared as the Lead Agency for the SEQR process for the Raby Tower Project. Seconded by Palmer and carried 4-0.

MARRA:

Support of War of 1812 Monument:

**SUPPORT FOR WAR OF 1812 BICENTENNIAL
TUSCARORA HEROES MONUMENT**

WHEREAS, Over 1000 British troops invaded Lewiston on the morning of December 19, 1813, during the War of 1812, killing many Lewiston residents and causing others to run for their lives, and

WHEREAS, At the moment when local citizens thought they would all become victims of a bloody massacre, men from the Tuscarora Nation ran down the Escarpment and stopped the attack, despite being outnumbered 30-to-1 by the enemy, and

WHEREAS, In one of the bravest acts in American history, and the only one where Native Americans rescued the lives of local settlers during a foreign attack, the courageous men of the Tuscarora Nation saved dozens of lives that fateful morning, and

WHEREAS, On March 14, 2011, the Town of Lewiston officially endorsed and obtained New York Power Authority Greenway Funds for the Historical Association of Lewiston's Tuscaroras Heroes Monument project that will permanently memorialize the heroic actions of the Tuscaroras and will be unveiled on the 200th Anniversary of the attack on December 19, 2013, and

WHEREAS, The monument will be presented as a gift of thanksgiving and appreciation to the Tuscarora Nation for its protection, guardianship and friendship of the people of Lewiston, New York, and

WHEREAS, The Town of Lewiston desires to position this monument in an honored location that will proudly show visitors and local citizens the importance and esteem Lewiston places on this historic event, along with demonstrating its deep gratitude for the bravery of the Tuscarora Nation,

SO THEREFORE BE IT RESOLVED, THAT the Town of Lewiston encourages the Historical Association of Lewiston, Inc. to proceed with plans to hold a ceremony and unveil the Tuscarora Heroes Monument on the Bicentennial day of the attack, and supports the location of the monument at the southwest corner of Portage Road and Center Street, which has also been approved by the Tuscarora Nation in continuing consultation with its leadership.

Marra MOVED for the approval of Resolution of Support as read. Seconded by Palmer and carried 4-0.

Reiter: I think we are the only government that has actually thanked the Tuscaroras. I commend the Board on taking those steps.

Civil Service Position/Building Dept.

Marra: A test was administered on July 13, 2012 for an Ordinance Enforcement Officer P/T and the top 3 candidates were interviewed by Mr. Masters.

Marra MOVED that Christopher McAuliffe of 817 Orchard Drive be hired for this position. Seconded by Palmer and carried 4-0.

Culvert Pipe Request/1897 Swann Road:

Marra: I believe that Mr. Janese and Mr. Masters will meet at that location to decide how to proceed.

Mawhiney Mine:

Marra: Mr. Dowd, I believe is trying to get the court order from Mr. Andrews.

Dowd: About a year ago, we were in court in front of Hearing Officer Kierston who worked for Judge Boniello and settled the case. The terms of the settlement were circulated. I did check with the court and the court never signed it. I know what the terms of the order are. So, we will follow up and get the order to the court now. We can recite the terms now if it matters but at some point we will make sure we will negotiate that fee that was paid. Mr. Andrews will look at the proposed order as well that the court submitted. There is a record of it in Judge Boniello's files. Once it is finalized we can issue the permits and make sure the insurances are in place. We will receive payment that has to be resubmitted.

Marra: We can take it up on September 10th.

Dowd: I hope to have the order before the 10th.

5322 Elm Drive/Drainage:

Marra: I spoke with Mr. Masters and Mr. Janese. There are 2 catch basins and a drainage receiver there and again the issue is whether they are in an appropriate location as far as how well they are. Mr. Janese has agreed to clean that out.

Accept Final Draft/Zoning Code Update:

Marra: We have spent almost two years on this. We first have to accept the final draft and then approve the resolution designating us as lead agency with SEQR and set a public hearing.

Marra MOVED to accept the Final Draft of the Zoning Code. Seconded by Winkley.

Reiter: We have to schedule a public hearing.

Brandon: We are asking that the public hearing be schedule for the Nov. Board Meeting on November 26th @5:30 p.m.

Reiter: I think we have to review it.

Masters: If the Clerk reads the Resolution it is in there.

Brandon: Here is the Resolution to be read tonight and also the EAF should be signed by the Supervisor.

RESOLUTION-PUBLIC HEARING

WHEREAS, the Town of Lewiston has worked diligently in preparing a Zoning Code Update for the Town; and

WHEREAS, through the coordinated actions of the Town Board, other Town Departments and Boards and Town employees, the Town has completed a Draft Zoning Code Update and Zoning map revision; and

WHEREAS, the Town of Lewiston has determined this Map and the Zoning Code Drafts are sufficiently complete for public review; and

WHEREAS, in accordance with part 617 of the implementing regulations pertaining to Article 8 (State Environment Quality Review Act – SEQR) of the Environmental Conservation Law, the Lewiston Town Board would like to begin the environmental review process of the Zoning Code Update by requesting Lead Agency status and beginning the adoption process.

NOW, THEREFORE BE IT RESOLVED, that the Town of Lewiston Town Board accepts the final draft of the Zoning Code Update and map as complete for public review and requests designation as the SEQR Lead Agency, in accordance with the regulations, for the purposes of conducting a Coordinated Review of this action; and

BE IT FURTHER RESOLVED, that the Town of Lewiston authorizes Wendel Duchscherer to begin the SEQR process and to complete the Niagara County referral form;

BE IT FURTHER RESOLVED, that the Lewiston Town Board directs that a public hearing be held, in accordance with New York State Town law, on November 26, 2012 at 5:30 p.m. at the Town Hall to solicit comments on the draft Zoning Code and Map.

BE IT FINALLY RESOLVED, that copies of these documents be made available for public review at the Town Hall and on the website.

Reiter: The reason that we put it off for so long is that there will probably be some minor changes. We have to notify all of the other agencies, such as the Niagara County Planning Bd. and currently our website is down. We want to make sure that everybody has plenty of opportunity to do it before.

Masters: Because of the situation with have a new web page being built right now, it will not be up on line immediately, but the hard copy is here at the Town Hall.

On a poll of the Board: Marra Aye, Palmer Aye, Winkley Aye and Reiter Aye. Motion carried 4-0.

Parks/Recreation:

Marra: The following individuals to be hired in Parks; Laborers Alex Boniello, Cameron Caso, Tyler Rueter, Derek Tracy, Frank Valente, Andrew Krause, and John Donovan. Parks Laborer; Vince Perricelli and Recreation Leader/Part Time Vince Ceretto and Cheryl Nowcien.

Marra MOVED to accept the list as presented. Seconded by Palmer and carried 4-0.

PALMER:

Lighting Request: St. George Antiochian Orthodox Church of 1073 Saunders Settlement requesting a street light at the church.

Palmer MOVED that this request be sent to the Lighting Committee. Seconded by Marra and carried 4-0.

Jordan Subdivision:

The Planning Bd. met on August 16, 2012 on the application for a one-lot subdivision request for Christopher Jordan, 2881 Moore Rd.

Palmer MOVED that a Neg Dec be issued for this one-lot subdivision, SBL#76.00-2-31. Seconded by Winkley and carried 4-0.

Although the Planning Board did not have a quorum, they recommend approval of this request.

Masters stated that he did not believe that those members, who were not present, would object to this subdivision.

Palmer MOVED to approve the request for a one-lot subdivision for Christopher Jordan at 2881 Moore Road. Seconded by Marra and carried 4-0.

WINKLEY:

Sanborn Fire Company submits for membership the following names: Daniel Coleman, Joshua Vivian and Cory Lockett.

Winkley MOVED that the names as presented be approved. Seconded by Marra and carried 4-0.

Winkley MOVED to go into Executive Session. Seconded by Marra and carried 4-0.

Time: 6:55 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session 7:00 p.m.

Present: Sup. Reiter; Council Members Marra*, Palmer & Winkley; Atty. M. Down and Finance Director M. Johnson.

Issue Discussed:

1. Lewiston Road parcel along Fish Creek
No action taken.

Motion to exit Executive Session made by Marra, seconded by Winkley and carried 4-0.

Time: 7:20 p.m.

*Minutes taken by Councilman M. Marra