

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Atty. M. Dowd; Atty. M. Davis; Police Chief C. Salada; Finance Director M. Johnson; Hwy. Supt. D. Janese; 3 Press; 30 Residents and Dep. Clerk C. Schroeder

The Supervisor opened the regular meeting at 6:05 p.m. Councilman Marra led the Pledge of Allegiance followed by a moment of silent reflection in remembrance of John Dougherty, a former Marine, retired NF Police Officer and long time Town of Lewiston resident.

At this time, Reiter asked for a presentation to recognize local winners of the 2012 Lions International Peace Poster Contest hosted by the Lewiston Community Lions Club: Loronda Burns, St. Peters Lutheran, Sanborn; Ciara McGrane & Rebecca Dobrasz, Stella Niagara; and Hanah Darcak, St. Peter's Catholic.

Reiter opened the two minute statement period.

RESIDENTS STATEMENTS:

Joseph Leone, 721 Powell Lane, said he is here in a representative capacity of Michael Townsend and his family regarding the Zoning Codification. The Supervisor said the Board is in a receipt of a letter addressing the concerns of the Townsend family. Reiter said the zoning of the three parcels in question would remain as zoned currently.

Attorney Leone thanked the Board and said he was happy to see the Zoning Code is finally marrying up to the Master Plan.

Thomas May, 897 The Circle Dr. said there is a program called Boy's State and also one called Girl's State. For the last two years, May said members of the Town Board have sent an ROTC student from Lewiston-Porter to Boy's State. The idea is to train these individuals to be future leaders. Board members have financed these students with funds out of their own pocket. No town funds are allocated. May said it is a program that turns around and betters the men and women to become the future politicians and the leaders at no cost to the student or their family. He thanked the Town board for their continued generosity.

Amy Witryol, 4726 Lower Mountain Road, thanked the Board for considering public comments on the proposed rezoning. I understand some corrections have been made. In an effort to move the process forward, I would like to support *conditional* approval of the rezoning proposals. Conditions are still needed to address lingering problems on the Niagara Falls Storage Site and three unique properties located on the former Lake Ontario Ordnance Works Site, which should not be zoned either Industrial 1 or Industrial 2. It's come to my attention that zoning these three properties Agricultural would allow residential construction absent a special use permit. However, it is critically important the Board understand that when considering clean-up standards the federal agencies will not split hairs over an Industrial-1 vs. an Industrial-2 designation. Either designation would encourage the worst possible clean-up standards. In addition, I notice that CWM is referring to these properties as being zoned Industrial in an attempt to persuade its regulator that its land use is compatible with what the community wants. Clearly, the public does not want an industrial complex increasing in the middle of an agricultural and residential community. The public would like to see it decrease. Therefore, the map presented to you, even as revised, is still very much in conflict with Town policy and public goals but only for the four unique properties.

To resolve this problem, the Town Board can create a new zone for these unique properties such as an "Agricultural-2" district that would require a special use permit to construct a residence. That would have the benefit of encouraging the best possible

clean-up standards, discouraging more heavy industrial uses, and giving the Town discretion to make its own assessment of the site suitability in the future.

Until all federal and state clean-up programs at the LOOW site are concluded in and around these properties, it would seem irresponsible to leave the zoning "Industrial." These properties have a history of agriculture and residential use and we want them restored to a status that provides the widest and cleanest economic development options, not the narrowest and dirtiest ones, potentially implied on the current map.

The Board could table this matter once more. Or, if it is fatigued with this process, the Board could "approve the zoning and the map conditioned on: The Town's directive that within 30-days the Consultant shall propose cleaner zoning alternatives for the Niagara Falls Storage Site and three unique properties located on the former Lake Ontario Ordnance Works site owned by the Town of Lewiston, Niagara Mohawk (now known as National Grid) and Chemical Waste Management, LLC. And further, that the Town Board will decide within 30 days thereafter whether or not to accept any of the consultant's proposals."

If the Board does not act to literally clean up the zoning for these unique properties, it would have the affect of increasing public health risk and decreasing economic development options, particularly as it relates to marketability of the properties in the future.

Finally, I will leave with the Board a copy of the Army Corps. of Engineers report of the completion of work under the FUDS (Formally Used Defense Site) program on Town of Lewiston property. Despite comments from the Army Corps., to the Town's Environmental Commission a couple of years ago, that there's absolutely no radioactive contamination found during the chemical investigation on the property, these documents show that radioactive waste including radium, thorium, uranium and plutonium taken from structures on Town of Lewiston property were, in fact, shipped to a disposal facility in Idaho because it's licensed to take radioactive waste. Thank you.

Robert Schul, 730 Sara Court, said it has just come to his attention, as well as his neighbors that the Board is considering the sale of buffer land that borders Powell Lane. He asked the status of that process. Also, he brought to the Board's attention that when that land was sold that the buffer zone would remain green forever and that it would be made available for the use of the residents in that development. That was indicated on the map plan of the developer, Leo Giusiana, when we sat down and purchased that land. He said residentS of that development would be able to, if desired, walk in the woods and that the green buffer area was contiguous throughout the entire development and that people would be able to use that forever. One of the major decisions we purchased that land to build our home was the privacy that buffer provided. It has now come to our attention that the Town is considering selling that off piecemeal. That would affect the design not being true to the development. I'm confident that would impact the resale value of our property. I'm here to find out what the process is and how we can get involved.

Dowd said the Board has already determined that property as surplus. The sale had been approved. We're now waiting for the survey to be prepared and the Title work. We're going to have a surveyor take a look at all the cul-de-sacs and come up with what he thinks is a fair and common sense way to distribute those back properties so each homeowner has an ability to buy the land that abuts their property directly. We're going to send that map to all the homeowners that are affected and give them the opportunity to see whether or not they want to purchase it. Ultimately, the Town Board would have to again find that these areas are surplus property. That's where we are. That process will be complete within the next 4 to 6 weeks.

Dowd said when the development was first proposed, the developer had an option to either pay a fee of \$250 per lot or to provide green space for park land to create a playground for neighborhood kids. The concept was there would be bicycle paths. It would be manicured, etc. It became cost prohibitive to the Town. The Town never developed it. It's swampy in some areas. We have problems with trees falling over

fences, pools, etc. We have a lot of liability and maintenance issues. The Town determined it was never used as a park. It just never worked out as a park. The Board is concerned about the liability. It has received many, many claims. It's impossible to maintain it. The hope of the Board is that if people own those green areas they would clean them up, manicure them, take the dead trees down, etc. That is what the Town envisions.

Reiter said that is as accurate as a statement that could be made. The vision of what the green area was supposed to be and what it actually is are two different things at this time. It's just a nightmare we are trying to cure up. Everyone will have the opportunity to buy the portion behind them. You will have the choice of keeping that portion forever green behind your house, as a result.

Joe Leone, Powell Lane said it's a good idea. If it is offered to me I will certainly consider purchasing it. That being said, I want the Town to perhaps consider making a conservation easement as part of it, allowing the property to be sold thereby getting rid of the liability. Behind my home I've had some trees that were about to fall. I went forward and took care of it myself. It seems to me we can have a little bit of both. If you put a conservation easement on there you can have green space owned by the property owner who would be responsible for the property while still keeping it forever green. That is something I am throwing out there.

Reiter said there would also be an overall easement for the Town's access because there are some drainage situations also.

AGENDA:

Additions:

Winkley: Addition to Fire Roster

Marra: Executive Session for Personnel matters (Police/Highway)

Reiter: Zoning Amendments; Letter of Intent for Recreation Center

Marra MOVED the agenda, as modified. Seconded by Bax and carried 5-0.

MINUTES:

Bax MOVED to approve the minutes of 12/27/2012 (Final Audit/RTBM). Seconded by Marra and carried 4-0. (Reiter Abstained)

Bax MOVED to approve the minutes of 1/07/2013 (Re-Organization/Worksession). Seconded by Marra and carried 4-0. (Winkley Abstained)

ABSTRACT:

Winkley MOVED to approve the Regular Abstract of Claims, No 1 to 143 and recommended payment in the amount of \$418,356.53. Seconded by Marra and carried 5-0.

POST-AUDIT:

Winkley MOVED for approval of post-audit payments to Home Depot - \$1,003.89; Sam's Club - \$3,260.07; Howell Motors, Inc. - \$23,696.00; Niagara County Mutual Self-Insurance Plan - \$354,307.30; Ally Finance Group - \$8,392.14; Michael J. Dowd - \$4,000.00; Mark C. David - \$1,700.00 and Orlando Carter Sneed - \$15,000.00. Seconded by Palmer and carried 5-0.

OLD/PENDING BUSINESS:

1. Acquisition of Legacy Drive, was already taken care of.
2. Appointment of Town Prosecutor: Reiter recommended the appointment of George Adamson.
Bax MOVED for approval. Seconded by Marra and carried 5-0.

3. Zoning Codification -- SEQR: **Bax MOVED the following Resolution as it pertains to SEQR, Seconded by Marra.**

WHEREAS, the Lewiston Town Board, with the input and participation of Town Departments and staff, has completed an update to Chapter 30 of the Town of Lewiston Zoning Ordinance, along with changes to the Town's Zoning Map; and

WHEREAS, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act - SEQR) of the Environmental Conservation Law, the Lewiston Town Board has established itself as SEQR Lead Agency and conducted a coordinated environmental (SEQR) review for this Type I action; and

WHEREAS, the Town Board has received input from the public and from other Involved and Interested agencies, and has taken a hard look at the social, economic and environmental impacts of the adoption of the Zoning Ordinance Update and Map; and

WHEREAS, the findings of this review indicate that the adoption of the Town of Lewiston Zoning Ordinance and Map will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and will help manage growth and development in the Town in a manner that will have potentially beneficial impacts on aesthetics, recreation, transportation and community character.

NOW, THEREFORE BE IT RESOLVED, that the Lewiston Town Board, as SEQR Lead Agency for this action, has determined that the adoption of the Town of Lewiston Zoning Ordinance update and Map will not result in any significant adverse impacts on the environment, and the attached Negative Declaration is hereby issued, based on the reasons as set forth in the Notice of Determination of Non-Significance; and

BE IT FURTHER RESOLVED, that the Lewiston Town Board recognizes the fact that the adoption of the Zoning Code Update and Map incurs no direct environmental impacts, and that the implementation of subsequent developments in accordance with the new zoning which may have potential impacts on the physical development of the Town, may require subsequent and specific SEQRA review; and

BE IT FINALLY RESOLVED, that the Town Board authorizes the Town Supervisor to sign the Environmental Assessment Form and authorizes Wendel, the Town's consultant, to undertake the appropriate notices and filings.

Motion carried 5-0.

4. Zoning Codification: Reiter said the following properties need to read as an amendment to the zoning resolution: The three lots owned by Michael Townsend on Buffalo Street, SBL#118.20-1-22, 118.20-1-23 and 118.20-2-26 will remain business in the business district. Also, property owned by Catherine Long on Swann Road, SBL# 88.02-1-3.12 will be added to the Industrial district on Swann Road (currently zoned Industrial-2), to allow for housing.

Bax MOVED for adoption of the Zoning Codification (Chapter 30 of the Town Code) and Zoning Map, as revised by the above referenced properties in addition to the Town's directive that the Consultant shall propose cleaner zoning alternatives for the Niagara Falls Storage Site and three unique properties located on the former Lake Ontario Ordnance Works Site owned by the Town of Lewiston, Niagara Mohawk (now known as National Grid) and Chemical Waste Management, LLC. And further, that the Town Board will decide within 30 days thereafter whether or not to accept any of the Consultant's (Wendel) proposals. Seconded by Palmer and carried 5-0.

5. Appoint Alternate Voting Delegate:
Marra MOVED to rescind the appointment of Michael Dowd as Alternate Voting Delegate to the Association of Town's Annual Meeting and to name Katelyn Allan as Alternate Voting Delegate. Seconded by Bax and carried 5-0.

6. Association of Towns, Resolutions 1-13:
Bax MOVED to accept the Association of Towns, Resolutions 1-13. Seconded by Marra and carried 5-0.
7. Installation of Water/Sewer Line – Vrooman Drive: Reiter said the Town would put the sewer line across the street and bring it to the lot line. The homeowner would pay the normal tap fee and accept the responsibility for running the sewer from the property line. The Building Inspector and sewer department has been forewarned of that.

CLERK'S CORRESPONDENCE:

Item No. 1: In an effort to put the Agenda on the Town's website for upcoming Board meetings, it is imperative that all items to be included be made available to the Clerk's office by noon on the Wednesday preceding the meeting. The Clerk's office is requesting a resolution indicating the same.

Palmer MOVED said resolution. Seconded by Marra and carried 5-0.

Item No. 2: A Request from Harry Raby, 2055 Ridge Road that notifications be sent to residents whose properties border a drainage ditch to refrain from putting grass and other clippings in the drainage ditch as this causes many problems with flooding in low lying basements. Notification would remind residents of this law and that it would be enforced by fines.

As these ditches are behind the homes, the Board directed the Drainage Supt. to put notification in the newsletter.

Supervisor Reiter:

Legal: None

Engineer:

Eng. Smith reported that sewer project in Sanborn is going very smoothly. The pipe is in the ground on Ward road, Buffalo Street and Rt. 31, east of West Street. They are waiting for County Health Department approval in order for the residents to tie in.

Highway/Drainage:

The Highway Supt. said when the highway budget was approved they discussed bonding for equipment and paving. Janese said he would like to sit down with the budget officer to present something for the Town Board at its next meeting, as he wants to get a 284 Agreement in place so he is able to start the plan for summer paving.

At the last meeting, the matter of the Muck Pumps was presented. He asked to take responsibility for the pumps: What we have are large industrial pumps. We are at the point where they are obsolete. We had one pump that has failed. We had to take it apart and send it to a machine shop to have parts made. Parts are no longer available. It's a very expensive and time consuming process. The pumps should be automated. I talked with Mr. Rotella to see if grant monies would be available for this. If the board doesn't mind I would just like to take the lead on this to get the project going.

The Board had no problem with this.

Lastly, Janese said he went to the Riverwalk Subdivision where they have been having a problem with drainage since 2006. He saw a set of drawings done in 2008, amended in 2009 and again in 2011. Coming into it this late, Janese asked to take the lead on this project. Let's get something accomplished with this thing. Reiter said he has spoken to the Homeowners Association in the past. They just want the standing water to drain properly. Janese said he would meet with the Association to get this matter resolved.

Recreation/Senior Center:

Reiter said he was presented with a schedule indicating the necessary steps prior to the construction of the Recreation/Senior Center. The Town Attorney was presented with a Letter of Intent from Lewiston-Porter. The next step would be for the Town Board to declare its intent for Lead Agency, starting the 30-day comment period.

Bax MOVED to declare its intent to Lead Agency. Seconded by Marra and carried 5-0.

Atty. Dowd said this is a Type 1 project. Letters of solicitation will be sent to other agencies that might have interest. This begins the 30-day comment period. If the Town does not hear anything back, the Town will go forward and take lead agency status.

Reiter said the planned funding for this building would come from Greenway Funds, as a result of the NYPA re-licensing agreement and would have no affect on the Lewiston tax-payers.

Village/Town Water System: Reiter commented on the mis-information regarding the water rate analysis. Reiter said the newspapers were provided the wrong information on the water rates by a Village consultant. Reiter said he has a chart in his office for anyone that would like to look at it. He would provide this to the press.

Lastly, Reiter said the Town recently accepted a donation from Waste Management for the Town Ice Rink. As there was a lot of discourse about a conflict of interest, Reiter asked that the Town again resolves its stand against the expansion of the landfill. **Reiter MOVED the following Resolution:**

Whereas an advertisement on behalf of the Town appeared in the Lewiston-Porter Sentinel on Dec. 3, 2012;

Therefore Be It Resolved that it continues to be the Town of Lewiston's position that it is firmly against the continued expansion of commercial hazardous waste land filling in Niagara County; and it views it as an adverse affect to the area's economic and public health.

Palmer Seconded the motion, for discussion.

Palmer: From the beginning of my service on this Board, I opposed any attempt for expansion by Waste Management... I do want to comment about the \$5,000 contribution by Waste Management towards the Town of Lewiston's Ice Rink this past winter. I know there has been a lot of controversy and some residents and even some non-residents have commented that we should return this contribution. I understand the reason for that. I know the application process has certain community caveats in it, but I think this organization that explicitly lowers the quality of life in this area should be giving contributions that benefit our children. It is incumbent upon them and others who disrupt our quality of life to try and pay back the community – even if it's a token \$5,000 – at least it is something. I would hope that in the future we would see more community responsibility from organizations like Waste Management. Therefore, I don't think we should return this contribution.

Motion Carried 5-0.

Removal of ZBA Member:

Reiter asked that a Public Hearing be scheduled for removal of a Zoning Board member as a result of a failure to attend State mandated training and failure to attend scheduled ZBA meetings. Reiter said he would like to schedule this for February 25, 2013 at 5:45 p.m.

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

Councilman Palmer: None

Councilman Winkley:

Fire Company Roster:

Winkley MOVED to add the following person to the Upper Mountain Fire Company roster: John Brundage, 981 Escarpment Drive. Seconded by Marra and carried 5-0.

Councilman Bax:

Wind/Tower Comte:

Bax MOVED to accept the resignation of Paul Hutchins, with regret, from the Wind/Tower Committee. Seconded by Marra and carried 5-0.

Bax asked that the Clerk's office put a notice in the newspaper accepting applications to this Committee.

Bax referred to a request from Jim Engle, to erect a 60-foot radio tower on his property at 978 S. Brookside Drive.

Bax MOVED to refer this to the Tower Committee for recommendation, Seconded by Palmer and carried 5-0.

Councilman Marra:

Marra said the Board inadvertently appointed Thomas Deal as Chairman for the Assessment Review Board. **Marra MOVED to rescind this appointment. Seconded by Winkley and carried 5-0.** Marra said the Review Board will appoint its Chairman.

Lastly, Marra said that due to the support of the community, the ice rink would remain open as weather permits.

Also, USA Curling Champion Patti Lank will conduct a Curling Class on Saturday, February 2 at 11 a.m.

Marra MOVED to enter into Executive Session to discuss personnel. Seconded by Winkley and carried 5-0. Time: 7:15 p.m.

Present: Reiter, Bax, Marra, Palmer, Winkley, Catlin, Atty. Dowd

Items Discussed:

1. Police Personnel Matter (Chief Salada present)
2. Highway Personnel Matter (Supt. Doug Janese present)

NO ACTION TAKEN.

Winkley MOVED to exit Executive Session and adjourn Regular Meeting, Seconded by Marra carried 5-0. Time: 7:30 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk