

Present: Supervisor D. Brochey; Councilmen A. Bax, Wm. Conrad & R. Winkley; Eng. R. Lannon; Attorney B. Seaman; Hwy. Supt. D. Janese; WPCC Ch. Oper. J. Ritter; Parks/Rec. Director M. Dashineau; Chief C. Salada; Finance Director P. Kloosterman; 1 Press; 7 Residents and Dep. Clerk C. Schroeder

Excused: Atty. M. Davis & Bldg. Insp. T. Masters

The Supervisor opened the worksession, followed by the Pledge of Allegiance and moment of silent reflection.

AGENDA

Brochey said he had a request from the Attorney to place the Tower discussion as the last item.

Bax MOVED to approve the agenda, as amended. Seconded by Winkley and carried 4-0.

LOCAL LAW RE MORATORIUM re Solid Waste & Recycling

Attorney Davis had change the language to reflect that the moratorium would not affect Modern Disposal's business with Quasar.

Bax MOVED the following Local Law, as revised. Seconded by Conrad:

SECTION 1. PURPOSE AND INTENT

The Town Board of the Town of Lewiston currently has under review amendments to the Town Code in regard to solid waste and recycling. Matters pertaining to solid waste and recycling activity within the Town emphasizes the need to suitable regulation under existing and clearly established standards in an effort to plan for and protect the health safety and well-being of and property in the Town of Lewiston. The existing provisions contained in Chapter 293 of the Town Code of the Town of Lewiston may not create and meet such appropriate standards and controls to allow for a harmonious balance and to protect the health, safety and well-being of the citizens and property in the Town of Lewiston. The Town Board desires to review and address, in a careful manner, provisions relating to solid waste and recycling and the disposal of sludge, sewage sludge and septage on a comprehensive and town wide basis and to amend and/or adopt appropriate provisions to achieve these purposes.

The Town Board of the Town of Lewiston finds it prudent and necessary to enact a moratorium applicable to solid waste and recycling and the disposal of sludge, sewage sludge and septage. This moratorium is intended to ensure that not approvals for such land use application be granted or permitted until this board can complete its planning studies and has had an opportunity to consider and enact appropriate amendments to the Code.

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York.

SECTION 3. APPLICATION

This Law shall apply to any and all solid waste and recycling and disposal of sludge, sewage sludge and septage with the Town.

SECTION 4. DURATION

This Local Law shall be in effect for six months from and after its adoption.

SECTION 5. SCOPE

During the effective period of this Local Law, no Board or Agency of the Town shall accept, process, review, recommend or grant approval for solid waste and recycling processing or the disposal of sewage, sewage sludge and septage.

SECTION 6. EXISTING ACTIVITIES

Any and all projects within the Town having a current permit to landfill sewage, sludge or septage, or any product derived there from issued by the New York State Department of Environmental Conservation pursuant to 6NYCRR Part 360, and which are currently actively land filling such pursuant to such permit shall not be affected by the terms and provisions of this Local Law.

SECTION 7. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence or part or provision of this Local Law shall not affect the validity of any other part of this Local Law which shall be in effect. This Local Law shall take effect immediately upon adoption by the Town Board of the Town of Lewiston and filing with the Secretary of State.

Bax: Aye
Conrad: Aye
Winkley: Aye
Brochey: Aye

MOTION CARRIED 4-0.

ABSTRACT

Bax MOVED to approve the Regular Abstract of Claims Numbered 2648 to 2964 and recommended payment in the amount of \$304,607.25, plus a post audit of \$153,784.40. Seconded by Conrad and carried 4-0.

Bax MOVED to approve the following voucher for a post audit payment – Artpark & Company in the amount of \$49,558.89. Seconded by Winkley and carried 4-0.

RESIGNATION

Winkley announced that Gregory T. Schuey formally resigns as Court Officer with the Lewiston Police Department effective September 8, 2014.

Winkley MOVED to accept Schuey's resignation, with regret. Seconded by Bax and carried 4-0.

RETIREMENT

Bax announced the retirement of Kevin Haseley, Highway Department MEO effective October 5, 2014.

Bax MOVED to accept Haseley's retirement, with regret. Seconded by Winkley and carried 4-0.

ASSESSOR'S DEPT. CLERK POSITION

The Town Assessor by memo notified the Town Board that the position of Real Property Appraisal Technician in the Assessor's Dept. has been filled. Heidi Seguin was chosen from the Civil Service list and resides at 406 Riverwalk Drive and will fill the position effective September 22, 2014.

Winkley MOVED to appoint Heidi Seguin to the position of Real Property Appraisal Technician, effective September 22, 2014, at the hourly rate of \$16.50. Seconded by Conrad and carried 4-0.

DRAINAGE (Swann Road)

This is in reference to the broken pipe located at 2022 Swann Road.

The Highway Supt. said he and Councilman Bax looked at that site last year. It is off the Right-of-Way. It is an issue between two houses. In the past, the former Superintendent cleaned the ditch. It was well-intended; nevertheless, Janese said the Comptroller's report recommends that this not be done. It is not on Town-owned property or in the R.O.W. Janese said there are a series of ditches that run across farm fields. They are not there to specifically drain farms. It is a way to get water to the north to get into one of the creeks and eventually drain off into Lake Ontario. Those are the ditches the Town can maintain that sit on private property. Janese said he would leave it to Atty. Seaman's interpretation. Everyone has read the Comptroller's Report, their recommendations and our response. As far as the Town doing actual work on someone's private property, unless I can show some benefit to the entire Town, I'm not supposed to be doing it. It is not part of our Town-wide drainage system.

The Supervisor recommended tabling this until the Building Inspector can give his opinion.

Atty. Seaman said he cannot speak to the specific ditch as he cannot make an assessment if it is a Town benefit or not. In general, what Mr. Janese said is correct. If there is a benefit to the whole Town if it is part of the integrated drainage system that benefits the Town then the Town is able to guarantee it. If it is a drainage system that benefits a single person's property or a couple of homes, the Town cannot maintain it. That is the way the law works.

Bax MOVED to table. Seconded by Winkley and carried 4-0.

UPPER MTN FIRE COMPANY ROSTER

Winkley referred to a request to add the following person to the UMFC roster: Michael McDonald Sr., 5108 Woodland Drive.

Winkley MOVED for approval, Seconded by Bax and carried 4-0.

JOINT MEETING WITH VILLAGE

Sup. Brochey announced a Jt. Meeting with Village of Lewiston Trustees on Sept. 15, 2014 at 7:00 PM, at the Village Municipal Center.

REFUSE TAX

The Finance Director said he has been in discussions with Attorney Davis on a refuse tax. He asked to table this matter until the next meeting so the Town Attorney can be present.

Bax MOVED to table, Seconded by Conrad and carried 4-0.

TOWER

Atty. Seaman was asked to remove himself during the discussion period regarding the tower on Upper Mountain Road. The Clerk was then asked to read correspondence submitted from a concerned citizen into the record:

I live at 857 Upper Mountain Road. My name is Earl Erwin and I have lived here for more than 20 years. I don't know the exact date the narrow band tower was erected on the property of the Upper Mtn. Fire Hall, but it was done on a Friday, Saturday or Sunday. There was a stop work order issued on that Friday that was ignored and they worked through the weekend anyway and later had to wire lights to it so planes would not hit it. This is directly across the street from my house.

I would like to know how and why this was thrown up while under a stop work order filed by the Town of Lewiston. I believe it is 70 feet from my neighbor's back door across the street from me. The tower is over 200 feet tall. Not only is it an eye sore but if this thing fell it would fall on at least one of three homes directly in its path; not to mention that my chances of selling my home with a tower over 200 feet in the air is slim to none.

I went to the meeting at the Fire Hall after getting a flier from Bill Ross with the wrong date on it. The only people speaking were the ones that were in favor of keeping the "proposed tower". I realize the need for the tower, but to put it in a neighborhood with the risk of it falling and killing people that live there is ridiculous and criminal. To say there was proper notification to residents is laughable. It was done in every way so people would not have a say in where the tower was placed and now its here -- 200 feet in the air looming over houses that homeowners have been paying taxes on for years. Nobody is going to buy a house with this thing anywhere near it. To hide behind Federal Laws is just plain wrong.

There is a meeting tonight regarding the tower in Lockport, the same night that the Town is having their meeting. That is not by accident that it is the same day and all officials couldn't go. The date is September 8, 2014. Today's date. Who is going to it and who are they going to represent? Why has an article 78 not been filed and who should be the one to file it? I believe the Town of Lewiston is the one who should file it. When is the exact date that Article 78 is no longer valid because of time restraints and legal loop holes to void any action?

This all seems very political, something I am not into but the Board of Lewiston is. This only affects a small number of homes in Lewiston but I can bet if it was in your backyard or front yard it would be a bigger issue. This is where the tough issues need to be fought and the right things need to be done no matter the political backlash.

I see my neighbor has put his house up for sale. What are the odds he is going to get fair market value for his house with a 200 foot tower just feet away from his house?

Brochey said he met with Mr. Erwin earlier in the day who said that the neighbor who had the house for sale across the street had several people come by and look. They loved the house until they went into the backyard.

Brochey said he had asked the Building Inspector and the Town Attorney (Mark Davis) to attend the meeting in Lockport. As far as filing an Article 78, Brochey was under the impression they had 90 days to file it.

Bax said the Board empathizes with the residents and acknowledges the fact there are timelines and those timelines are very sensitive to preserving and conserving their rights with respect to their property values and the Town's rights with respect to enforcing the law it has on the books. Bax said he, along with Supervisor Brochey and Atty. Davis discussed setting up a joint meeting between the Town residents who are affective, the Tower Committee and the Town Board in an open session to have a frank conversation about the rights the Board needs to protect and deadlines that are at issue. We need to make to make sure everyone is made whole here. Bax said the Town has a vested interest in making sure that it takes care of this matter and does the right thing. We will set up that meeting and contact each of the residents to try and initiate the resolution of these issues.

Winkley: Do you know what the timetable is?

Bax: The deadline is October 25. We have to send them a notice that there is a dispute outstanding. That a will serve that timetable. They have what they call a 50-H hearing that would take place just to make sure there is merit to the claim. We need to do this concertedly but quickly also. What is important to note is that this is not any negative statement to our first responders. I think that is what some of the residents were concerned about that at that meeting with Chairman Ross, they were told how impetrative is was that we have this system in place. We acknowledge that; however, to erect a tower that controverts our own statute on the issue with very little notice and the way it was done breeds more questions than answers. We need to deal with it because regardless whether it's a small number of residents, they are residents of the Town of Lewiston and we need to represent them.

Before entering into Executive Session, the Highway Superintendent said he wanted to update the Board on several issues.

Janese said he removed the barricades in the Riverwalk Subdivision that were put up by the developer on private property. As a courtesy, Janese said he took them down and put up something more aesthetically pleasing.

He then updated the Board on the culvert drains on Country Club Trail.

The Highway Dept. is ready to put in sidewalks in Riverwalk Subdivision. He estimates the job taking seven working days. It's predicated on the weather.

Regarding the Riverwalk drainage issue, Bax said it is his understanding that the pipe has not collapsed based on the video. Lannon said there are some areas where they are some roots that need to be removed, but nothing excessive. Lannon said he made copies of the video and forwarded them to the NYS Office of Parks. He will meet with the State Parks on Thursday to review the tapes with them.

Regarding the greenspace issue, Janese said he had an arborist come in who will put together a list of trees determined to be an immediate hazard.

Lastly, Janese said he would like to buy two vehicles. Both have been budgeted for. The first is a Ford-450 Cab and Chassis for \$33,000. This will be eligible for a grant reimbursement. The second is a Ford-250 for \$23,000. He would like to lease this for 3 yrs. at \$8,000/year. This is a 4-wheel drive, off road vehicle.

The Finance Director said this is the first he's heard of this. He hasn't checked any of the numbers over or checked to make sure the money is properly there.

EXECUTIVE SESSION

Winkley MOVED to enter into Executive Session re Personnel. Seconded by Bax and carried 4-0. Time 7:15 p.m.

*Executive Session:

Present: Brochey, Bax, Conrad, Winkley, Seaman and J. Stephens

Issues Discussed:

1. Matter concerning the employment of a particular person.
2. Upper Mountain Tower Issue

Action taken: None

*Minutes taken by Ron Winkley

Winkley MOVED to exit Executive Session and adjourn the Worksession. Seconded by Bax and carried 4-0. Time: 8:30 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk