

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Building Inspector Masters; WWTP Chief Operator Ritter, Highway Superintendent Janese; Town Engineer Lannon; Finance Officer Kloosterman; Police Chief Salada; 3 Press; approximately 10 Residents and Clerk Donna Garfinkel

EXCUSED: Councilman Conrad

The Supervisor opened the Public Hearing. The Clerk read Notice of Public Hearing into the record.

**NOTICE OF PUBLIC HEARING
TOWN OF LEWISTON**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 25th day of August, 2014 at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Town of Lewiston, New York, on the adoption of a proposed Local Law entitled, “Moratorium of Disposal of Sludge, Sewage Sludge and Septage,” an abstract of which is as follows:

The Town Board of the Town of Lewiston currently has under review amendments to the Town Code in regard to solid waste and recycling. 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 no 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.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours.

At such public hearing, all persons interested, who wish to be heard, will be heard.

Ordered by the Town Board

Dated: July 28, 2014

The Supervisor invited residents to address the Board.

Assemblyman John Ceretto – 685 Cayuga Drive – The issue is sewage sludge or equate. The Town of Wheatfield passed a law that bans equate or the spreading of sewage sludge on agricultural areas as a fertilizer. Ceretto’s office has contacted the DEC and what is being heard is that DEC is still giving out permits.

To Ceretto it sounds un-American. Local law, home rule has decided to ban this material to be spread on farm lands, and yet the DEC is continuing to issue permits. They are allowing this to be spread on the land. Ceretto’s office requested a list of farms it is being spread on. The DEC said no, there is a privacy issue. What about the neighbors that are next store, what about their privacy.

Ceretto will continue to back all communities in this and wishes Lewiston all the best. He will work with Lewiston to make sure this material is not used.

Ceretto is working on a Label Law. The label will notify the consumer of the use of equate in the growing process of the product.

Glasgow, Paulette – 836 The Circle – It was questioned if there is a time line for the moratorium. Clerk answered six months.

Glasgow asked if the Board is going to do this in the next six months. Bax answered no, the Board can always reissue it. Glasgow said the Board could, but might have a problem. When Glasgow was on the Town Board, this was tried with Oakhill

Development. This can be done with a local law. The courts frown on extending a moratorium.

Smith, Gary – 1650 Ridge Road – Smith is here on behalf of Modern Landfill Inc. The moratorium has been reviewed by Modern. The Town attorney has spoken with Modern's attorney and Smith understands that the intent of the law was not to be in conflict with the Modern Host Community Agreement. Smith would like to have a little more clarity in the law. Smith is asking the Board to consider the clarities.

Attorney Davis said after this discussion Section 6 has been changed and Davis suggests the following:

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 Environmental of 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.

If the Board is agreeable to the change, no action should be taken tonight. Leave the Public Hearing open and agree to the changes at the September 8th Worksession.

Gormley, Tobin – 1962 Swann Road – Gormley said the boundaries of the application and closeness of where people live, and kids play it is important for the residents to know. There is drain tile from Route 104 to Gormley's foundation. All the water from the farmland will be carried to his foundation. The last thing Gormley wants is for this to be ok, and for a farmer, who may be 1,000 feet away to put this material into the ground, and ultimately end up in his basement.

It is hard to believe it is still being considered. If you hear the word sludge here in Lewiston, it is thought, "don't we have enough?" Do we need this in our backyard? All should ask, do you want this in the property next door?

Unless farmers attend a meeting in mass, begging the Board to allow this to go through because they're going bankrupt, then this is not looking to help the farming community; it is looking to help someone take advantage of this.

Gormley hopes this is stopped and not considered anymore. Please do not put this in our backyard.

Brochey said that is the reason for the public hearing. The Board is here to protect the people who live in the Town of Lewiston. The Board is doing all it can to make sure this does not happen.

Bax MOVED to adjourn the Public Hearing, keeping open till the September 8th Worksession, Seconded by Winkley and Carried 3 – 0. (6:15 pm)

Transcribed and Respectfully Submitted by:

Donna Garfinkel
Acting Town Clerk

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Building Inspector Masters; Highway Superintendent Janese; Town Engineer Lannon; Finance Officer Kloosterman; Recreation Director Dashineau; Police Chief Salada; 3 Press; approximately 28 Residents and Clerk Donna Garfinkel

EXCUSED: Councilman Conrad

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

TWO-MINUTE STATEMENTS BY RESIDENTS

The Supervisor asked if any resident wished to address the Board.

Hoffman, Carl – 4321 Riverwalk Drive South – Hoffman’s comments are expressing concerns, views, and opinions of the Riverwalk Homeowners’ Association.

1 – Sidewalk repair/replacement: When the HOA last addressed the Board concerning this issue, June 9th; they were told the sidewalk work was out to bid and that, to date one bid was received. The bidding process was necessary, they were told, because the Town Highway Department, according to Mr. Janese, was unable to perform the work. Now, two month later, after the three bids required by law had been received, we’ve been told the Highway Department is suddenly capable of performing the work. The Riverwalk Homeowners’ Association would like to go on record as urging the Town Board to approve one of the three bids, so the four-year-old sidewalk repair/replacement issue can be expediently resolved.

A corollary sidewalk issue is the repair that needs to be done to a portion of Mr. Carella’s sidewalk on the west side of Riverwalk South. Last fall, the Town Water Department needed to remove part of this sidewalk while doing a sewer line repair. Late this spring, Hoffman spoke to Mr. Harvey, who said Carella’s repair was on the schedule and should be completed by mid-June. At the end of July, Carella once again requested Hoffman call the Water Department. Mr. Harvey informed Hoffman the repair work had been taken from the Water Department and assigned to the Highway Department. Why? Is this normal? If the Highway Department couldn’t do the repair for the community, how could they do it for Mr. Carella?

2 – Road Barriers: The dead-end barriers at both the east and west ends of Riverwalk Drive are in deplorable condition. On August 5th, a letter was sent to Highway Superintendent Janese requesting the barriers be repaired/replaced. To date no response has been received and calls to his office have not been returned. Would it be possible to have some barrier beautification?

3 – Road Signage: Currently there is no street sign at the T-junction of Riverwalk Drive South and Riverwalk Drive. Many delivery vehicles and contractors have become confused when trying to locate Riverwalk Drive. Would it be possible to have a street sign installed?

Craft, Ron – 105 North 4th Street – Craft submitted a petition on August 14th for the disillusion of the Police Dept. Craft received a copy of the petition back. He asked where the original is. Why was the original not returned? On the back of it, is a notarized statement that is missing. Craft wants to know where the original is and where the notarized sheet is.

Craft received a letter from the Town Clerk. Craft asked the Clerk if she investigated the submission of the petition; who did? To answer Craft’s questions Garfinkel said the Town Attorney researched the reasoning and prepared the letter.

Craft received a phone call from a State Board of Elections lawyer. He said Town Law 150 §4, gives Craft the right. Craft wants the original back and tomorrow he will file it with County. Craft has tried to play softball with the Board, now he will play hardball.

Craft said before he leaves tonight he wants the original and wants to know where the back page is. If he doesn’t have the back page, it negates the whole petition.

Garfinkel asked the Board if she should respond. Winkley said no response is to be given during public comment.

Craft said for someone who is running for her job, Garfinkel, he suggests she helps them out. Garfinkel said this Town Board meeting is not for campaigning. Craft said he has the floor, and Garfinkel can respond when he is done.

Craft said they are taxpayers, and are not privy to all the laws; the residents come to the Board for help and to protect us. In return, Craft feels the Board is protecting everybody but those on the petition.

Lampman, Jacquelyn – 300 Oneida Street – Lampman is here to speak for Ron Craft's right to obtain a petition and submit it to the Board. The Board should accept it whether they agree or not with the petition. Lampman is very disturbed by the Town Attorney and the Town Clerk rejecting the petition on an interpretation by the Town Attorney on the codes that govern the right to petition for a referendum. The Town Attorney does not make this decision on his own. Lampman believes all the Board was involved in the decision. The Board apparently doesn't want the petition to go to a referendum.

Whether Lampman is for or against this, the political machine for the Police Dept. is in full force. The two newspapers will not print anything against their friend in the Village or the Town. You can't get a letter printed in the Sentinel or Gazette for this petition.

Since this has come out, we see the Police in the Village. Before that we saw the NY State Troopers, Border, Sheriffs and Parks Police.

The liaison office at the Red Brick, which was promised, is now Mr. Grenga's office. There is no transparency to this Lewiston Police Dept. Why so many cars? Only two patrol at a time. There is a new white SUV for the Chief, why? What is the cost? Police come into the Village and they look like a swat team. Vest, taser, mace, guns. Where is all this military style coming from?

The Board needs to reassess the priorities and stop the blotting of this Police Dept. Lampman has numerous relatives in police work, and has a great deal of respect for police. However, the culture in this department has changed.

This is a political ploy to stop this petition from getting on the ballot. We all see what the Board is doing. The Board is telling all the petition signers, that their rights don't count.

Lampman asked the Board to take the time to reassess what they are doing.

Glasgow, Paulette – 836 The Circle – Glasgow offers clarification on submitting a petition for referendum. The petition is handed into the Clerk's Office; the Clerk forwards it, under law, for interpretation to the Town Attorney. So the Clerk did her job.

Effective local self-government is explicitly recognized with Article IX of the NYS Constitution. This constitutional right is established within the Bill of Rights for local governments. Provisions within the bill of rights enumerate specific powers, privileges and protection grants to local government by the state legislature and literally construed by NYS Courts. In order to preserve these specific powers, privileges and protections, the state legislature enacted Municipal Home Rule Law and the Statute of Local Governments. Taken together these statutory and constitutional provisions along with settled case law constitute what is commonly known as Home Rule authority for local governments. Under Municipal Home Rule law local governments are granted Home Rule authority to pass local laws related to zoning, planning, land development and natural resource conservation.

Home Rule authority is a quasi-constitutional right of authority for local governments to pass local laws relating to their property, affairs or government. Under Municipal Home Rule local governments are granted the authority to preserve and protect its physical environment, the health, safety and general well-being of all citizens living within that municipality. Further, under Municipal Home Rule authority, local governments are granted specific rights on any matters relating to ordinances, resolutions and zoning regulations.

Because local governments have independent authority to regulate land use under Municipal Home Rule Law and the Statute of Local Governments home rule authority has been upheld as a source of zoning and planning power for local governments. Because of this independent authority, local governments can adopt the standards and procedures needed to bring about legal and orderly zoning, planning and land development.

Local government's authority to regulate land use has been upheld in settled law, specifically *Sherman v. Frazier*. In its decision, the court said the following: "MHRL authorizes a town to adopt local laws to exercise the powers granted to it in the statute of local governments. The statute of local governments in turn gives the towns the power to adopt, amend and repeal zoning regulations, therefore it follows that a Town Board is enabled to adopt zoning regulations by virtue of its MHRL, as well as those granted by Town Law". The courts have held that MHRL and the Statute for Local Governments are sources of substantive authority for local governments to pass local laws regulating land use development within their jurisdiction.

In 1997, the Town Board passed a Towers Law regulating the placement and siting of towers within the Town of Lewiston. That local law established a procedure that must be followed before any tower is to be constructed within the Town of Lewiston. This law doesn't forbid the siting of towers but preserves Lewiston's home rule authority with regard to the placement and siting of towers. In other words, the law preserves Lewiston's specific Home Rule authority granted it under the NYS Constitution and the Statute of Local Governments and affirmed by the Courts of NYS as it relates to zoning.

Last month, Niagara County constructed a 219 foot steel lattice tower within the Town of Lewiston. Although Niagara County claims to have "reviewed and conformed with all applicable local codes," the facts say otherwise.

Had Niagara County reviewed and conformed to Lewiston's zoning regarding placement and construction of towers they would have discovered that steel lattice towers are not permitted in the Town of Lewiston.

In its draft and final environmental impact statements, Niagara County designated itself as lead agent and defined this project as a Type 1 action under NYS SEQRA. Under SEQRA a Type 1 action indicates a significant adverse impact to the environment. Because it assumed lead agency, Niagara County should have referred this project to the Niagara County Planning Board for review and comment. Further, under SEQRA as lead agent, Niagara County was obligated "to coordinate the SEQRA review process with all involved agencies."

In its January 2, 2013 resolution, Niagara County directed "that other involved agencies be notified in accordance with SEQRA," and that all documents relative to this project be "prepared and circulated to potentially interested and involved agencies," and that those documents include "the draft scoping document, in addition to written comments."

Since this is a 219-foot steel lattice tower within the Town of Lewiston, one must definitely assume the Town would be an involved agency and the County should have coordinated the SEQRA process with the Town.

If, under SEQRA, Niagara County coordinated and circulated all involved agencies documents relative to the siting and construction of a 219 foot steel lattice tower, why isn't the draft, final environmental impact statements, along with engineering drawings, letters to residents informing them of and asking for comments regarding the siting of a 219 foot tower in their backyards in the Town Clerk's and the Town Building Inspector's office? Since Lewiston never waived its constitutional and/or statutory right of Home Rule authority regarding zoning, why was a local law regarding the siting of a 219-foot tower circumvented?

Last Wednesday, the County held a meeting to answer resident's questions regarding this tower, I asked for a list of all alternate sites considered and why this particular tower wasn't constructed a ¼ of a mile up the road in a non-residential area. I was promised my answers by 4:30 pm last Friday. At 5 pm this afternoon, Jonathan Schultz came by my home with an envelope from the County Manager. I informed Mr. Schultz, Mr. Ross promised the answers to my questions by 4:30 pm Friday afternoon. Mr. Ross walked door to door delivering flyers announcing a County meeting, yet he couldn't come by my home before Friday, 4:30 pm to deliver an envelope.

These are questions that need to be addressed and need to be answered since the County refuses to address them; the only resolution to this whole sad affair is the dismantling of this tower and the taxpayers of Lewiston to be exempt from the cost of that dismantling.

Neal, Barry – 850 Upper Mountain Road – Neal thanked Ms. Glasgow for providing the necessary back ground.

Many people here tonight realize the violations that were done, whether it was or was not with the acknowledgement of the Town of Lewiston. Niagara County said at a meeting held last week, that they have been working three years on this program. There are numerous town code violations, and not following specific Kimball Engineering specifications. The County asked NYPA if they could use State land, and NYPA responded yes, but no follow-up took place.

The tower is there, and at about 60 feet from Neal's property. It was put up in 3 or 4 days, over the weekend. It is a lattice tower, which is not permitted in Lewiston. It is not separated from a residential dwelling of 500 feet. If this tower fell it would go right across Upper Mountain Road.

A Motorola representative indicated "it is not a breakable tower". It was said by someone along the line that it was a breakable tower, so it is not a safety issue.

Neal is concerned with EMF's (Electromagnetic Field). There have been issues discussed about cancer and cell phones; we are talking about a tower and EMF emissions.

In order to protect the residents safety and that is why you have all been elected, what is the Town of Lewiston really going to do at this point about the construction of a tower that is illegal, as far as Lewiston's code?

Brochey said there is a possibility this will go to litigation, so it should not be discussed.

Bax understands the resident's frustration. Bax spent endless hours drafting the Town Tower Law they are violating. The tower, as it stands, violates several levels of the Town of Lewiston code, not to mention zoning and planning.

The way it went up and the style for which the tower is smells bad to Bax. Details of the Board's concerns can't be divulged, but the Board is with the residents. Bax said any past correspondence received by him, started with the phrase, "as we are considering the erection of a tower, this is our status." Never has it mentioned that they had selected a site, not that Bax has seen. It has never come to a crossroad were it needed to be referred to the Tower Committee. The fact that the County did not abide by the law is a major concern for Bax personally.

Nablo, Jennie – 844 Upper Mountain Road – Nablo also thanked Glasgow for expressing the residents concerns.

Nablo would like to know what the outcome of the Tower Committee was. Winkley said it never went before the Committee.

Nablo attended the meeting last week with the County. They explained to the residents that there is no risk; the tower has been completely reviewed for safety. Yet Kimball Engineering conducted an EIS, which reads: "There is always the possibility that environmental conditions can overload the tower and as a result in its collapse were other failures. In this situation the structure, ora and quotas of the people within the radius of the tower base equal to the tower height would be at risk". Nablo's home sits within 200 feet of this tower, and she is concerned and wants the Board to continue to look into this. Nablo appreciated the representation of Lewiston at the County meeting, but left with a lot of unanswered questions.

Nablo asked who the individual was that walked out of this meeting at the beginning of this discussion, is he a Town official. Winkley said it is Town Attorney Brian Seaman. Nablo wished he would have stayed present during the comments.

Winkley said Attorney Seaman has to recues himself because he is a part-time County attorney.

Glasgow said he heard all that she said. Winkley said he was going to leave, but didn't want to walk by once she started speaking.

Deal, Sue – 850 upper Mountain Road – Deal asked Board members if the tower was in their backyard, would they like it? Deal does not think so. How long will it take for the Board to take action? Action is fine, but this can be dragged out. This is something that needs to be addressed now.

Catchpole, Ronald – 4888 Townline Road – Assemblyman Ceretto asked Catchpole to tell the Board he had a previous engagement. Ceretto thanks all for their help.

Catchpole thanked Chief Salada for having officers visible on Sunday regarding trucks from Mawhiney. The pit was open Sunday and they drove all day. Trucks drive by Catchpole's house honking the horn and flipping the bird. A dump truck went by and from Catchpole's house to Lower Mountain Road they used their Jay-brakes. Catchpole lost his cool and confronted the driver, but he would not get out of the truck.

There was an officer there today at about 4:30 pm, but left to go after someone. So at 5:04 pm two dump trucks went by Catchpole's house to Lower Mountain Road using their Jake breaks.

Catchpole can't believe that at the last board meeting the Board approved a resident on Townline Road having a pond. How did this happen? It was said in August 2013, that residents would be notified of any pond applications.

Brochey said that pond was to be used on the same property; the soil will not be moved from the site.

Catchpole said there are two ponds going in on Route 104, with those trucks using Townline Road also.

Catchpole said there is no one watching the hours of operation. They are already going by his house at 7:10 am, how can they load that fast if they open at 7:00 am?

Brochey said he and Masters will look into the hours of operation.

Fortino, Peter – 874 Upper Mountain Road – Fortino works like crazy to get where he is. Moved his kids away from this type of thing (tower), didn't even get to enjoy the place because now there is this monstrosity in the backyard. Fortino is worried about the safety of his kids and his neighbors. It is not known what the affects the tower will have or what is a safe distance, but Fortino knows they broke the rules, it should not be there. The Board needs to do something.

AGENDA APPROVAL

Bax removed the Adoption of Local Law #5, since the public hearing was left open. Winkley also requested removal of Nussbaumer invoices and the removal of Councilman Conrad's agenda except the Oak Run Subdivision.

Bax MOVED to approve the Agenda, as amended, Seconded by Winkley and Carried 3 – 0.

APPROVAL OF MINUTES

Winkley MOVED to approve the minutes of Special Meeting 7/16/2014, Seconded by Bax and Carried 3 – 0.

POST AUDIT PAYMENT

Winkley MOVED to approve the following vouchers for post audit payment: Home Depot - \$301.55; Key Bank - \$52.47; Sam's Club – 4,795.50; DeLage Landen - \$120.50 and Leaf - \$656.86, Seconded by bax and Carried 3 – 0.

OLD BUSINESS

Riverwalk Sidewalks

Janese said it is difficult for the department to do its work unplanned. There is quite-a-bit of work to get done in a short period of time. When Janese said he could not do the sidewalks that was the truth. There was an issue with the County paver; it was taken back for a month, giving the department a hole in the schedule, which is when Janese said lets do the sidewalks. As far as Mr. Carella's part, he has been notified his will be done first. This should be started in approximately two weeks. It makes sense to have the Town do the work so the funds stay here.

Winkley MOVED to allow Highway Superintendent Janese to make the sidewalk improvements in Riverwalk, Seconded by Bax and Carried 3 – 0.

Janese was not aware of there being no street sign at Riverwalk Drive and Riverwalk Drive South, but will have it placed in the next week or so. The barriers spoke of earlier belong to the developer and are not on a dedicated portion of the road, nevertheless he wants to make them safe and functional.

Hoffman was told by the property manager that the barriers do not belong to the developer or the association. They belong to the Town and were put there by the Town.

Muckland Pumps

Janese said he has found a vendor, Mowing Magnetics. They will perform a site visit tomorrow and give the Town an estimate. Mowing Magnetics told Janese that any parts the town doesn't have, they can make. Janese said they will provide a warranty on the re-build.

Janese said a set of controls will be put on the pump. Mowing will design all of these features for free. It will be something functional, simple and almost full proof where no one will know it is there. The weather is not a factor here. This could be done in less than 30 days.

The cost savings on this is important. If this can be done for \$25,000, the Board might consider doing the other one, once the functional pump is in. Rebuild them both for \$50,000.

If the Town does the removal, Mowing Magnetics would, at no charge, have a tech come out and help with the reinstallation and any necessary adjustments will be done on site. It would be part of the package to rebuild the pump.

Lease transfer for the Mini Excavator

Kloosterman said the Highway Dept. wants the mini excavator at \$11,640/year for the next two-years. The Parks Dept. want the skits deer at \$8,360/year for the next two. Ritter has no problem with the transfers.

Bax MOVED to transfer the obligation of the leases for the Mini Excavator to the Highway Dept. and the Skits Deer to the Parks Dept., Seconded by Winkley and Carried 3 – 0.

Janese said anytime this equipment is needed by any department it can be loaned out along with an operator.

NEW BUSINESS

The Clerk informed the Board that the Household Hazardous Waste Day, sponsored by Niagara County Refuse set for September 27th has been canceled.

Item No. 1: Drainage pipe installation – 4015 Calkins Road – Kajdasz. Kajdasz requests the Highway Dept. install a 12" drainage pipe. A quote of \$1,105.18 was given to Kajdasz for just the pipe.

Janese said the Highway Dept. does not have the staff to install it.

Bax said it has been discussed the Town have a policy to bill for the pipe and a stipend for the labor, but only in periods where the department has the man hours to dedicate to it. Seaman said it was brought to his attention an audit report by the State Comptrollers Office a few years ago, said they were pretty critical about this practice. Before the Board works on any new procedure this should be looked at to see what is appropriate.

Item No. 1a: Drainage pipe installation – 2040 Swann Road – McKenzie. McKenzie is requesting the Town install a 36’ drain pipe with the necessary cradles and fittings, filled over, graded and seeded.

Board said the remarks are the same for this.

Clerk asked to keep all requests together and when the Town creates a policy they will address.

Item No. 2: Street light request – North Hewitt Drive.

Winkley MOVED to refer the request to the Lighting Advisory Board, Seconded by Bax and Carried 3 – 0.

Item No. 3: Sewer Credit – Creek Road – Coppins. Coppins submitted a bill for work done on the pool liner.

Winkley MOVED to credit Richard Coppins, 4849 Creek Road, \$111.00 for the sewer portion of the water bill, Seconded by Bax and Carried 3 – 0.

Item No. 4: Greenspace tree issues – 772 & 776 Michelle Court. Residents request overhanging trees, on to their property be removed and/or trimmed.

Janese said the Town uses Woodchuck Tree Service. Janese and Masters will walk the area and designate the trees that need to be taken down or trimmed. Janese to come back with a report.

Brochey asked Janese about the Town employee that is certified to do this work. Janese said he is qualified to work within ten-feet of power lines, but with this scope of work it is better to use Woodchuck.

Item No. 5: Agenda Item Sheet – Department Heads

The sheet is to allow department heads to submit agenda items. This will ensure items are put on the agenda and help the Board to know what their department head needs to be discussed.

Bax MOVED to approve the Agenda Item worksheet, Seconded by Winkley and Carried 3 – 0.

SUPERVISOR BROCHEY

LEGAL

Seaman spoke regarding the Police petition. Clerk Garfinkel did contact Seaman, as he had asked her to do. Seaman did quite a bit of legal research. The conclusion is; there is not a provision in the law that allows for a citizen to introduce a petition on this matter. There is a proposition in the law that says, if this Board here, were to abolish a Police Department then the citizens can go out and circulate a petition to contest that action. That is Section 150, §4, that Mr. Craft is referring to. Seaman is very confident that this is not allowed under the law.

Brochey questioned if this meant it will not go any further than where it is at. Seaman said yes. There is no provision that would allow the Town Board to put this on the ballot.

ENGINEER

Lannon met with the developer to work out a resolution on the Chicora Road drainage. Hopes to report back at the next board meeting.

In regards to Riverwalk drainage, due to scheduling conflicts and the weather, the contractor has not been able to clean, flush or televise the lines.

National Grid has not returned the proposals for Legacy Drive lighting. Lannon communicated to Mr. Massaro, the last conversation the Board had regarding payment of the recreation fees.

Construction is under way with the NYS DOT Route 265 / I-109 water replacement.

Lannon, Masters and Davis have met with Niagara University attorneys regarding University Drive. This needs to be discussed with department heads to see just how much access is necessary.

Oak Run Phase III construction is under way. Curbs are being installed this week, with pavement being done next week.

Lannon met with Robert Nablo regarding the water system improvements and is preparing estimated project costs.

Lannon received the Towns Standards and Specifications on disk and are working to update and finalize.

APPOINTMENT TO BOARD OF ETHICS

It was brought to the Board's attention that a Town employee should be on this Board.

Winkley MOVED to appoint Assessor Linda Johnson to the Board of Ethics, Seconded by Bax and Carried 3 – 0.

FINANCE

Kloosterman has been working with the Town of Porter to finalize the agreement that was in place regarding Stormwater Management. Porter would pay 30%, Lewiston would pay 70%. The total cost is \$13,102. Porter does not believe they should pay 30% of the \$2,800 worth of vacation time that was paid out to an employee. Kloosterman told Porter they would need to address this with the Board.

Bax would like to discuss this after additional information is received.

SINK HOLE – County Club Trail

Janese said this has been on-going for sometime. There are structural issues with the catch basins. Janese wants the Supervisor to get a good look. There are several thousand feet of county curb that are beyond repair. This is not in the highway department's realm.

TOWER UPDATE

Brochey told residents that they have the Board's sympathy. His opinion is no, he would not want this in his backyard. Masters and Brochey are a bit upset on how all this materialized. The Town was not informed. The Board will not sit back. This will take time because this is the County and Federal Government.

Bax said these towers are designed to take on additional co-locations. Davis said the County stated they will not allow that. Bax also is very concerned with how this took place, and would not want it in his backyard. Bax apologizes to the community for it getting by the Town Board, but will be vigilant in getting some sort of satisfaction.

Winkley said the fireman and police officers, this tower is to support are also a victim in this. The fire department and all those in the room assumed that the County had followed proper procedures. They are being dragged through this also because of the County's actions. They may have to go without a much needed radio upgrade. The fireman and police had nothing to do

with the location, they were happy to get better communication. There is a stop-work order on the project.

A resident in the audience said they were working on it yesterday. Masters did not know that.

Winkley agrees that if they would have come to the Town and discussed this it would have worked out much better. Any letters received on the project never mentioned Lewiston.

Davis said many of the letters from the County, talked about the SEQRA process, in general, and that the County was to assume Lead Agent. Davis received these letters from the County attorney approximately a week ago.

Winkley said the Board needs to move fast, for the residents and the firemen; something has got to be done. Winkley would not want a tower in his backyard either.

Ms. Nablo supports the Upper Mountain Fire Company; Mercy flight lands there, this is wonderful, and very proud of this service. It was thought the pad was a helicopter landing pad, which would have gone through the Town process, and would have been o.k. with that. What Nablo is not o.k. with is, a tower going up in four days with no notification.

Winkley believes that had the application come to the Town, the Tower Committee and the Building Inspector would have denied it, therefore never making it to the Board. The only authority the Town has right now is the Stop-Work Order.

COUNCILMAN BAX

Highway Issues – Janese said he is working with Councilman Bax and Conrad on several drainage issues. Janese is going out and looking at the outstanding drainage issues to get them off the list, by giving an answer one way or another.

Waste Water Treatment Plant

Ritter said the plant is going through a drying-bed project. It is one of the first of its type. The DEC is having a bit of a problem with some of it, so more engineering needs to be completed.

Change in the Policy Manuel – Nepotism

The current policy states “no two relatives can be employed by the same department”. Janese is requesting a change in this to reflect that “no relative should supervise another relative.”

Bax MOVED to refer this the Board of Ethics, Seconded by Winkley and Carried 3 – 0.

Seaman recommends the request be in writing, along with the response from the Board of Ethics. Janese will forward to Town Clerk for distribution to Ethics Board.

Recycling Bins

The Town will receive \$2,000 from a prior bin purchase, and use it to purchase 250 additional bins. There will be a balance of \$225, with the funds coming out of SRO Fund.

Bax MOVED to approve the purchase of 250 recycling bins at a total cost of \$2,225, Seconded by Winkley and Carried 3 – 0.

Oak Run Subdivision

Masters updated the Board. In 2005 when the subdivision was approved, in-lieu of recreation fees, developer Glenn Andrews, gave the Town 15.7 acres of Federal Wetlands as greenspace. Andrews has agreed to re-configure Phase 4 of his subdivision and extend the property lines of lots 17 – 23 through to the greenspace. This needs Board approval since this was not part of the original subdivision approval. The Planning Board has reviewed this and determined it is not a significant change to the subdivision. No recreation fees will be paid.

Bax MOVED to table, to allow the Attorney to provide the Board with the best way to handle the needed motion, Seconded by Winkley and Carried 3 – 0.

COUNCILMAN WINKLEY

Addition - Upper Mountain Fire Company

Winkley MOVED to add Ryan Clark, 1100 Elliott Drive to the Upper Mountain Fire Company roster, Seconded by Bax and Carried 3 – 0.

Discussion on A-61 Capital Account

Winkley MOVED to table, Seconded by Bax and Carried 3 – 0.

Building Permit – Sanborn Historical Society

The Planning Board met, reviewed the Site Plan for the Sanborn Area Historical Society to move the Legion Hall on Pearl Street to the 2660 Saunders Settlement Road location. They recommend acceptance of the negative declaration and recommend Site Plan approval.

Winkley MOVED to accept the Planning Board's recommendation to declare a Negative Declaration, Seconded by Bax and Carried 3 – 0.

Winkley MOVED to approve the recommendation of the Planning Board on the Site Plan for the move of the building to the Sanborn Historical Society, Seconded by Bax and Carried 3 – 0.

Bax MOVED to enter into Executive Session for discussion on Legal and Personnel, Seconded by Winkley and Carried 3 – 0. (8:15 pm)

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman and Finance Officer Kloosterman

EXCUSED: Councilman Conrad

Winkley MOVED to exit Executive Session and Adjourn the Town Board meeting, Seconded by Bax and Carried 3 – 0. (9:15 pm)

No action taken

Transcribed and Respectfully Submitted by:

Donna Garfinkel
Acting Town Clerk