

**PRESENT:** Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; WWTP Chief Operator Ritter; Building Inspector Masters; Town Engineer Lannon; Finance Officer Kloosterman; Highway Supt. Janese; Recreation Director Dashineau; Sgt. Previte; 2 Press; 11 Residents and Clerk Donna Garfinkel

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

The Board presented Paul Bencal with a proclamation, read by the Supervisor, to celebrate his many years as a member on the Board of Assessment Review.

#### WESTERN NEW YORK LAND CONSERVATORY ORGANIZATION PRESENTATION

Executive Director Nancy Smith thanked the Board for allowing her to speak. Also in attendance was Jajean Rose-Burney – Development Director and Mary McCatchin – past Board member. The organization is regional in scale and has about 600 members, with their office located in Erie County.

The Conservatory has been in Western New York for 23-years. In those years it has been able to protect close to 6,000 acres of land across eight different counties. The mission of the Conservatory is to find and preserve the most special places that are important to individual families, farmers and the community. There's protection of wetlands, forest areas, working farm land and thousands of acres of wildlife habitat. Preserving these special places help to transform a region. To be successful in land preservation the community needs to be involved in decisions that are made.

There are several ways to protect the land. The Conservatory can own it; have a Conservation Easement, or an Assistant Transaction.

The Niagara Escarpment Legacy Protect is complete. A \$300,000 grant was received from the Greenway Committee to perform a study on the escarpment. Studies were done on specific plant communities and the ecological communities. This study is available at the library.

The Stella Niagara Preserve is 131 acres, which is now owned by the Sisters of St. Francis and has been cared for by Stella Niagara for over 100 years. Stella was looking to sell the land so a dialog was started with the Land Conservatory. The price tag on this property is \$3.2 Million.

This property is important historically. It is where the British landed and captured Fort Niagara. It was used by the Native Americans for hunting and trading and in 1955 there was an ice jam/storm that went down the river and went on to the land. The only building not to be damaged is the Chapel which still remains.

The Conservatory is making sure that when the funds are secured, it includes enough dollars to take care of the property. There will be trails, boating, kayaking, fishing and many other activities. This is also a very important bird area that is for all to enjoy.

The Conservatory will hold Citizen Outreach meetings to give the public the opportunity to express what they would like to see.

It is the goal to complete the funding campaign by June, 2015; this is what the contract with the Sisters of St. Francis says. To date the project has received \$1.8 million from the Greenway Habitat Enhancement Restoration fund, \$1/2 million from the Greenway Ecological Standing Committee and several local donors.

When Smith first spoke with Supervisor Brochey, there was a discussion of possibly \$300,000 funding. More recently \$150,000 funding was discussed, with the Town working with the Conservatory to approach Niagara County to match the \$150,000. The Conservatory needs a commitment for the funding by June. If the Board has any suggestions for additional sources of funding please let them know.

Bax asked if this is handicapped accessible. Smith said it is not the plan to have a road go down to the water.

Brochey questioned how the Conservatory organization is funded. Smith said funding comes from membership support, major donors, grant dollars and some from municipalities. Smith will forward a financial report to the Board. In regards to Stella, funding will be used for maintaining the grounds, mowing, maintenance of the meadow, etc...

Bax thinks this is a great project and has a much farther reach than was known. It will be a great place to come and explore.

The Board thanked Smith for attending.

## TWO MINUTES STATEMENT – RESIDENTS

Glasgow, Paulette – 836 The Circle – Glasgow thank Mr. Bencal for his many years of dedication to the County and State Farm Bureau.

In the 2011 audit, the State Comptroller found that Town employees failed to follow the Town Procurement Policy with competitive bidding requirements, when procuring goods and services.

In the Town Boards March 2012, CAP (Corrective Action Plan) the Board instructed all Town employees to immediately adhere to the Towns Procurement Policy when procuring goods and services.

The Town's Procurement Policy reads "It is the policy of the Town of Lewiston to procure goods and services by advertising for sealed bids. Any goods and services having a cost of more than \$5,000 or equal to or less than \$10,000, is subject to three oral quotations. Any public works contract of more than \$20,000 shall be awarded to the lowest responsible bidder after advertisement for sealed bids. Unless otherwise directed by the Lewiston Town Board, solicitation of written proposals or quotations is not required under the following: acquisition of professional services; emergencies or sole source situations."

Opinion 79-25, of the State Comptroller, found it is the Town Board, not the Highway Superintendent who has the authority to declare emergencies with regard to competitive bidding purposes. Per Town Law 64, it's the Town Board that should have authority with regards to the management, custody and control of all town property, land and buildings.

In reviewing Town minutes, it was found Town employees are continuing the practice of non-compliance, regarding this Town Policy. October 27, 2014 finds O'Connell Electric providing \$7,000 in electric service to the Highway Dept. Since this service is neither sole source nor emergency, and no where in Town records is there a notation the Town Board voted to declare that exception. Three oral quotations should be found, but do not exist.

The minutes also note this service was provided as an in-kind service. Since the Town Board has managerial control of all town land and property, and the electrical service was provided on Town property, it is the Town Board that has the authority to accept this service. No where in Town records does this appear.

On September 4<sup>th</sup> Molar Magnetics of Lockport was given a \$25,000 low bid public works contract to repair one of the vertical turbine pumps, aka – Muckland pumps. Glasgow thought she heard someone say that it was a sole source provider. A sole source provider means that a company is the only company that provides that particular service. If you Google "repair of vertical pumps" you will find many companies throughout New York state that provide this service.

Recently Glasgow was told this repair was an emergency. The Town has been talking about it for 6 to 8 months. Why is there no authorization in the minutes that the Town Board declared this an emergency?

If the primary purpose for obtaining quotes and bids is to encourage competition, provide taxpayers with the greatest insurance those goods and services are procured at the most prudent

economic manner, to the lowest possible price, why did the Town Board not advertise for these sealed bids?

Some will say that the Board did. In the July 28<sup>th</sup> meeting Winkley made a motion to go out for a base bid on one of the pumps and an alternate bid for an additional second pump. Yet, two weeks later, on August 11<sup>th</sup>, in the minutes, the Town Board instructed Lannon to hold off on any more engineering pertaining to these pumps. Bax then moved to authorize the Highway Superintendent to make contact with a manufacturer either in Rochester or Syracuse to evaluate the down pump and to report back to the Board. So no bids were done.

Glasgow wonders why three oral quotations were never sought before \$7,000 in electrical service was given to O'Connell Electric. If oral quotations or sealed bids were never sought, how does the public know that the services were procured in the most prudent and economic manner?

Glasgow is wondering why O'Connell Electric has been permitted to park its equipment on Town property without Town Board approval. Why is there no approved contact with O'Connell to provide the \$7,000 in electrical services?

Why is there a sudden need to repair a second pump, because the second pump was working when Lannon was told to hold off on the bid process?

Glasgow recalls Attorney Seaman making a very good point, about two weeks ago, saying this is a public works project and needs to go to bid. Glasgow hopes the Town Board follows Seaman's advice.

Leo, Rocky – 568 Oak Run Drive – Leo moved into a new home on Oak Run Drive and put up a beautiful mail box. The mail-box was taken down by a plow, and then was run over by Mrs. Leo causing damage to her bumper. Why didn't the driver get out of the truck and pick it up?

Winkley said this will be addressed under Clerk's Correspondence.

Hoover, Robert – 6030 Hoover Road – Fire Chief Sanborn Fire Co. – Niagara County Community College dorms are in the Sanborn Fire Co. district. There have been several calls to the dorms that concern Hoover. These calls are related to the sale of tobacco pipes at the local convenient store. They are for tobacco, but are being used with marijuana. Hoover is not sure what the Board can do, but any help would be appreciated.

Davis asked to research if there is anything the Town can do to ask they be placed somewhere else in the store.

Hoover is also concerned with the lack of radio communications when in the dorms. There needs to be better communications with dispatch and his men.

## AGENDA APPROVAL

Kloosterman requested to add water meter reader purchase. Seaman requested an executive session for consultation regarding on-going litigation.

**Winkley MOVED approve the agenda as amended, Seconded by Bax and Carried 5 – 0.**

**Winkley MOVED to enter into Executive Session for a conference call regarding ongoing litigation, Seconded by Bax and Carried 5 – 0.** (7:35 pm)

**PRESENT:** Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Atty. Gary Abraham (Via phone)

Discussion on CWM Permit

**Winkley MOVED to exit Executive Session and reenter the Town Board meeting, Seconded by Bax and Carried 5 – 0.** (8:30 pm)

BOARD APPROVAL/NEGATIVE DECLARATION – SPECIAL USE PERMIT

**Conrad MOVED to issue a Negative Declaration for the Special Use Permit – Bed and Breakfast at 1488 Ridge Road, Seconded by Bax and Carried 5 - 0**

**Conrad MOVED to grant a Special Use Permit – Bed and Breakfast at 1488 Ridge Road, Seconded by Bax and Carried 5 - 0.**

APPROVAL OF MEETING MINUTES

**Bax MOVED to approve RTBM – 10/27/2014; PH – Preliminary Budget – 11/6/2014, Seconded by Winkley and Carried 4 – 0 (1-abstention – Ceretto)**

Brochey asked for spelling corrections on minutes of 11/10/2014.

**Bax MOVED to approve the minutes of 11/10/2014 with corrections, and RTBM – 11/24/2014, Seconded by Winkley and Carried 5 – 0.**

POST AUDIT PAYMENT

**Ceretto MOVED to approve the regular abstract of claims numbered 3836 – 4102 and recommended payment in the amount of \$234,850.05, plus a Post-Audit of \$68,470.78, Seconded by Winkley and Carried 5 - 0 .**

**Ceretto MOVED to approve Post Audit payments to Home Depot - \$1,094.82; Sam's Club - \$2,057.18, Seconded by Winkley and Carried 5 – 0.**

OLD BUSINESS

1 - Deputy Tax Receiver Request

**Bax MOVED to table, Seconded Conrad and Carried 5 – 0.**

2 - Joseph Davis State Park – Snow Plowing

Janese said barrier have been placed at entrances. State Parks has asked the Town to plow the lot. Janese and Dashineau have discussed this; Janese would not use his trucks. The Town will plow to the toll booths and the outer roads, as a courtesy.

3 - WPCC – Purchase of Camera

This is part of the CMOP, Capacity Management Operation Project. The Niagara County Sewer District has approved \$20,000/year payment towards the camera. The bid has been published and will be opened January 7, 2015.

4 - Sewer Refund Credits (pools)

Kloosterman said this was a discussion on allowing the Water Dept. to make the decision on the refund. The Board did not want to do that. Kloosterman will create a document for a quarterly submission.

Winkley has a problem with someone, other than the Board, being instructed with the decision to pay-back money.

Seaman said a quarterly submission of refund requests is a good idea. He feels the Board should be the ones to make the final decision.

Ritter said the Town has a sewer use agreement, signed by all the municipalities, that says when a resident originally buys a pool; they can defer the payment of the sewer, for filling it one time.

There is a pool refund request for Petrosian – 456 Fuller Place under Clerk's Correspondence. Receipts submitted are for deposits for the work done. Bax wants to make sure the refund amount is for one refill.

**Bax MOVED to approve the refund subject to the WWTP reviewing the receipts and the amount credited to be for one refill of the pool, Seconded by Winkley and Carried 5 - 0.**

On Bax's agenda there is a sewer refund request from a resident at 1159 Escarpment Drive. This is the second such incident at the home. The home had frozen pipes, which burst and caused serious damage to the home. This resident lives out of town part-time.

Bax and Ritter have discussed this and would like to give a remedy to the resident; however this is the second time.

Ritter spoke to the resident, told her the Board may not see fit to refund, since it is the second time. Ritter was directed to send a letter to the resident at 1159 Escarpment Drive notifying them of the Board's decision.

5 – Muck Pump rebuild

Janese is recommending the Town fix the 2<sup>nd</sup> pump. It has been discussed that the pumps are old. The one pump was broken and since repaired. The other is older and not been rebuilt in 20-years. Janese says it is up to the Town Board. The Board can rebuild it or wait till it breaks; Janese has no opinion either way.

**Bax MOVED to wait until Spring 2015, Seconded by Conrad and Carried 5 –0.**

6 – WPCC – Resolution Re: Micro Turbine Project

Ritter said Rotella was to give the grant application to the Supervisor for his signature.

**Bax MOVED to table, Seconded by Ceretto and Carried 5 – 0.**

NEW BUSINESS

Item No. 1 – Carry-over Personal Day

Town Clerk requests Deputy Town Clerk Carole Schroeder carry-over two personal days into 2015, with the understanding they will be used within the first quarter.

**Bax MOVED to approve the carry-over, Seconded by Winkley and Carried 5 – 0.**

Deputy Tax Receiver Darlene Norwich requests to carry-over one personal day to be used by March 31, 2015

**Bax MOVED to approve the carry-over, Seconded by Ceretto and Carried 5 – 0.**

Justice Gee is requesting Maria Sicurella and Patty Yacus carry-over five-days of unused vacation time into the first quarter of 2015.

Winkley said the department had some extenuating circumstances. There was an unfortunate death within the department, and feels this meets the requirements.

**Winkley MOVED to approve the carry-overs, Seconded by Bax and Carried 5 – 0.**

Item No. 2 - Sanborn Area Historical Society – Fee Waiver

The President of the Society is requesting, with the many projects and expansions at the Farm Museum, that the Town waive any Town fees associated with any such projects permits.

**Winkley MOVED to approve the waiving of Town fees for building permits associated with the Sanborn Farm Museum, 2660 Saunders Settlement Road, Seconded by Ceretto and Carried 5 – 0.**

The Clerk provided the Board with applications for Boards and Commissions. She suggested the Board extend the deadline to December 31<sup>st</sup>.

**Winkley MOVED to extend the deadline to apply to December 31, 2014, Seconded by Bax and Carried 5 – 0.**

SUPERVISOR BROCHEY

Liaison Report

Clay Ming – Guard – Pletcher Road. This Pond was approved by the Town Board in 1995. The Town has received a notification letter from the DEC, saying they want to renew this mining application till 2019.

This was discussed at an Environmental Commission meeting, and they wonder how can this be done if the Town is unaware of what is happening there. The Commission forwarded a letter to the DEC requesting any incident reports, progress reports and a copy of the Storm Water Pollution Plan.

It was suggested Masters and the Town Engineer make a site visit and report back.

**Bax MOVED to direct Timothy Masters and Robert Lannon visit the site and assess the status of this project, Seconded by Ceretto and Carried 5 – 0.**

Mail Box Invoice – Oak Run Drive

Conrad asked Janese if the plows notice when they hit a mail box. Janese said no. The mail box was brought to the garage for repair, but the resident said they will replace it. Town policy is \$50 for mailbox replacement.

**Winkley MOVED to pay \$50, per Town policy, to Leo - Oak Run Drive for replacement of the mailbox, Seconded by Ceretto and Carried 5 – 0.**

Engineering

Lannon reported that a Letter of Intent has been received from NYS Office of Parks, Recreation and Historic Preservation, to grant an easement for the storm sewer located at Joseph Davis State Park. The Attorneys have reviewed.

**Bax MOVED to authorize the Supervisor to sign the Letter of Intent from the NYSOPR, Seconded by Winkley and Carried 5 – 0.**

Lannon said the Letter of Intent also suggested the Town conduct the SEQRA for the storm sewer installation. Lannon will prepare a Short Form EAF, with the Town being Lead Agent and submit for next Board meeting.

Bax said the Environmental Commission forwarded a letter to the Town Board asking the Board to review or reopen the investigation of the four or five ponds located there. Bax acknowledges receipt of the letter and will hold the suggestion for a future look at the project.

Sienna Environmental Technologies submitted a proposal for Asbestos Design and Project/Air Monitoring Services for demolition of four buildings at Joe Davis. They will prepare the technical specification, identifying procedure and proper methodology for the demolition. Sienna's fee is \$9,450. This will go out for bid. The estimated demolition cost is approximately \$80,500.

**Winkley MOVED to authorize the Supervisor to sign the Proposal from Sienna Environmental Technologies, with the fee not to exceed \$10,000, Seconded by Bax and Carried 5 – 0.**

Lannon is working with National Grid regarding street lights on Legacy Drive and Oak Run.

PRV Pits - All field work is complete and waiting on two documents. The PRV on Dickersonville Road needs a storm pipe installed and it is Lannon's understanding the Town will install this.

Finance

The current water meter heads remaining in approximately 3,000 homes are approximately 12-years old. The Town has two meter readers but both no longer work. Kloosterman requests permission to purchase two meter readers, from e-bay, at an amount not to exceed \$1,000 each. Seaman said, under the Town Procurement Policy, the Town can purchase in this manner.

COUNCILMAN BAX

Recreation Director submitted fund transfer request

**Bax MOVED to transfer remaining dollars in A-7310.401 and A-7310.402 to H-61 (Recreation Development) for use on a Capital Project, Seconded by Winkley and Carried 5 – 0.**

COUNCILWOMAN CERETTO

Nothing to report

COUNCILMAN CONRAD

Conrad said a Notice of Violation was issued to 5828 Townline Road for an unsafe building with removal to take place within 60-days. The Sanborn Fire Company is requesting the Town Board waive the 60-day removal requirement, to allow the home to be used for a fire training exercise.

**Conrad MOVED to waive the 60-day removal requirement for the unsafe building at 5828 Townline Road, to allow the home to be used by the Sanborn Fire Company, Seconded by Winkley**

Masters told the Board all surrounding residents were notified of this, and if they were in not in favor he asked them to attend this meeting.

**Carried 5 – 0.**

COUNCILMAN WINKLEY

The Police Dept. is requesting a fund transfer to purchase new laptops for the department due to a required software upgrade. Previte said the existing equipment will no longer work.

**Winkley MOVED to authorize the following transfer: \$15,000 from B-00-1990.0400 and \$5,000 from B-00-3120.0400 into Police Equipment – B-00-3120.0200, Seconded by Conrad**

Ceretto and Winkley are looking into other funding avenues for this purchase.

Edwards said this is very untimely to jam this mandate to the Town. The budget has been worked on since August, and now the County is requiring this. Winkley said it is not being very well received by many Police Chiefs in the County.

**Carried 5 – 0.**

**Winkley MOVED to enter into Executive Session to discuss litigation, Seconded by Ceretto and Carried 5 – 0. (9:26 pm)**

**PRESENT:** Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman  
Discussion on litigation.

**Bax MOVED to exit Executive Session, Seconded by Winkley and Carried 5 – 0.** (9:50 pm)

No actions taken.

**Conrad MOVED to adjourn the meeting, Seconded by Ceretto and Carried 5 – 0.** (9:51 pm)

Transcribed and Respectfully Submitted by:

Donna R. Garfinkel  
Town Clerk