

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax, Conrad, Marra, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Building Inspector Masters; Highway Superintendent Janese; Town Engineer Lannon; Finance Officer Kloosterman; Internal Claims Auditor Johnson; Police Chief Salada; 1 Press; approximately 18 Residents and Clerk Donna Garfinkel

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.

Catchpole, Ronald – 4888 Townline Road – Catchpole has attended past meetings regarding the speeding trucks on Route 429. Now he is here to address the clay mining that is taking place on Route 104 & Route 429. This has been known as Mawhiney Trucking and Tug Hill Environmental, and now is called Niagara Frontier Clay, Inc.

There are five (5) pits there that if you take them and overlay them they are as big if not bigger than Bonds Lake. One is 25-acres, another is 50-acres. The ponds are pee-green, aqua-green and all kinds of colors, and are mosquito infested. It is a hell-hole down there. They have no respect to the surrounding residents. There was a scale there that no longer works so it is not known if they are over-weight. Catchpole would like to know what is going on with the clay. In 2013 the Board said this wasn't going to happen anymore and residents would have input. Catchpole has never given any input, in December 2013, they were allowed to continue. Mawhiney Trucking will be digging another pond on Moore Road.

Catchpole stopped counting the ponds in Lewiston when he got to 100. They are all abandoned. They are calling them farm ponds, recreation ponds, wildlife ponds etc... The DEC and the Board just keeps letting them do it.

AGENDA APPROVAL

Additions to agenda: Brochey – Police Grievance and discussion on wages; Bax - Environmental Commission meeting dates; Winkley – Sanborn Greenway projects and Joe Davis Park; Marra – Recreation issue, Police and Town Budget; Conrad – statues of Bridgewater and Village/Town meetings.

Bax MOVED to approve the Agenda, as amended, Seconded by Conrad and Carried 5 - 0.

APPROVAL OF MINUTES

Bax MOVED to approved the RTBM – 5/29/2014 and Town Board Worksession of 6/9/2004, seconded by Conrad and Carried 5 – 0.

POST AUDIT PAYMENT

Marra MOVED to approve Post Audit payments to Home Depot - \$480.34; Sam's Club - \$4,279.40; DeLage Landen - \$195.50; Leaf - \$656.86; Mountain Glacier - \$49.85; and Joe's Country catering - \$1,180.00, Seconded by Bax and Carried 5 – 0.

OLD BUSINESS

Notification of fire works – Upper Mountain Road – Atty. Davis spoke to Fire Inspector Martin. He is gathering the information from the applicant and will report back when the investigation is complete. Moving forward it was suggested a point-person be noted for this process. Davis suggests Inspector Martin.

No action taken.

Introduce Local Law – Adoption of Code– Atty. Seaman reviewed the law and states it looks fine from a legal standpoint. If the Public Hearing is held and then adopted within 90 days this can be submitted to General Code and placed in the code at no cost.

Bax MOVED to hold a Public Hearing on the Local Law to Adopting the Code Book, on July 28, 2014 at 6:15 pm, Seconded by Marra and Carried 5 – 0.

NEW BUSINESS

Item No. 1 – Pond request – Schroeder – 4912 Townline Road

Schroeder is requesting the \$5,000 excavation fee be waived. The pond will be 50-ft x 100-ft and 10-ft deep with a sandy beach at one end. The dirt removed will be used on low spots throughout the property.

Masters said the Town Excavation law does not have an exemption for small personal, recreation ponds. So the ponds discussed earlier, Mawhiney pit, has a blanket excavation fee to pay. Any small pond, less than an acre, they pay the \$5,000 fee. The Board has waived this before.

Davis said there is an exception they do not move the top-soil / clay off the property. This was referred to Masters.

Item No. 2 – Williams plaque request – Joseph Davis State Park

Nicole Williams had requested a plaque be placed at the 9th hole of the disk golf course at Joe Davis Park in 2013. Ms. Williams is requesting to change the plaque to a stone.

Bax MOVED to approve the modification to the previous placement of a plaque to a large rock, Seconded by Marra and Carried 5 – 0.

Item No. 3 – Sewer Credit – Hargrave – Callan Drive; Walker – Dana Drive; Ricco – James Drive; Myers – N. 5th Street; Garcia – Lower River Road and Ip – Escarpment Drive.

Bax MOVED to credit the amount of the sewer portion of their bill: Hargrave – Callan Drive - \$30/cycle; Walker – Dana Drive - \$78.00; Ricco – James Drive – \$48.00; Myers – N. 5th Street - \$120.00; Garcia – Lower River Road - \$834.93 and Ip – Escarpment Drive - \$207.00, Seconded by Conrad and Carried 5 – 0.

Item No. 4 – Lewiston Town Code – Reviewing of Editorial & Legal Analysis

With the re-codification of the Town Code almost complete, General Code has forwarded us an Editorial and Legal Analysis. General Code reviewed the existing legislation in the Code to identify Code provisions that are outdated or may be in need of revision.

They suggest the Board establish a time frame and specific deadline for each department to review the Code that affects them and return to the Town Clerk. At that time the Town Clerk would forward their suggested changes/comments to Town Counsel for final review before starting the adoption process of any changes.

Bax MOVED to forward the Editorial and Legal Analysis to all Department Heads for review, once received forward their comments to Town Counsel for final review, Seconded by Conrad and Carried 5 – 0.

Winkley requests the Sanborn Area Historical Society (SAHS) address the Board.

The Sanborn Area Historical Society thanked the Town Board for securing a \$175,000 grant for the relocation of the 1825 Church/Legion building. At this time the Society is asking the Board to release the Greenway funds to start the project.

Winkley MOVED to permit the Sanborn Historical Society, when funding becomes available, to make a withdrawal in the amount approved, Seconded by Marra and Carried 5 – 0.

Masters said this project will need to go to Site Plan. They are operating on a Special Permit, so they will need a Site Plan amending their current Site Plan.

Gary Townsend, President of SAHS said the church has served 5 churches and numerous civic groups over the past 187 years. The building will be brought to the Farm Museum property on Saunders Settlement Road and restored back into the church. The steeple, steps and front doors will be restored. This is a wonderful addition to the Farm Museum.

SAHS would like to work with Bernie Rotella on a grant for a sign project they are working on.

SUPERVISOR BROCHEY

Proclamation request – Lewiston Fire Co. #1

Lewiston Fire Co. #1 is 100 years old this year. At the July 26th centennial celebration they will dedicate the firehouse addition / renovation. All Board members are encouraged to attend. The Clerk will prepare a proclamation for the Board to sign and present.

LEGAL – nothing to report

ENGINEERING

Lannon distributed a project report summary.

Riverwalk/NYS Parks/Joe Davis Park – A site visit was performed last week with the contractor. Lannon to provide mapping to move forward.

Legacy Drive – Lannon to meet with Massaro to review outstanding items. The street lights have been addressed and National Grid will prepare a proposal.

NYS DOT Rt. 265/I-190 Bridge replacement – Nothing new to report

Muckland pumps – Site visit done and necessary measurements were taken to complete the design. Lannon asked if the Board would like him to move forward with the design and come up with a cost estimate. Lannon will present a preliminary design and cost estimate for the July meeting.

Highway Superintendent Janese said it had been discussed that the Highway Dept. does the installation of the pumps. Janese said the installer has to warranty the equipment, and that would be Lewiston, so the prudent thing to do is have them installed by someone else.

University Drive – Trying to communicate with the Niagara University attorney.

PRV Pits – Project close out – Working with Yarussi to close-out.

FINANCE

Kloosterman is working on the half-year report, and would like to meet with each councilman to discuss just were the Town stands financially.

The budget process will be starting soon and Kloosterman understands that in the past department heads met with the Board to review their budget, and would like to bring this back.

COUNCILMAN BAX

LIAISON REPORT – Highway. The Town just finished helping pave the Village. The County only has two machines, so in the rotation the Town needs to wait approximately two weeks before there is paving outside the Village. Janese said a paver can be leased but it is almost \$20,000 a week.

Janese to meet with the general manager of Suit-Kote. They are the subcontractor of the job on Lower River Road and used the Joe Davis parking lot to park their equipment. He will explain how they will repair the parking lot and give Janese a time line.

Some communities are still struggling with the issue of snow removal from the winter and the overage in the cost. With the State and County contracts the Town has, the department came in \$90,000 under budget. There will be reimbursements from the State and County. Janese requests the Board restore the budget lines for this year.

ENVIRONMENTAL COMMISSION REQUEST - Commission requests the Town Board authorize them to research the viability of Lewiston going to a recycling cart system instead of the tote system. 14 of the 20 Niagara County municipalities are now using carts.

Bax MOVED to authorize the Environmental Commission permission to move forward with researching the cart recycling program, Seconded by Conrad and Carried 5 – 0.

The Environmental Commission changed monthly meeting days to the 3rd Monday at 6:00 pm.

COUNCILMAN CONRAD

PLANNING BOARD MEMBER APPOINTMENT

Conrad MOVED to appoint Wayne Lynch to the Planning Board to fill vacancy with a term to expire December 31, 2017, Seconded by Bax and Carried 5 – 0.

The Board is trying to improve its relationship with the village. Conrad suggests the Board meet with the Village on a quarterly basis. Conrad will work on something for July.

LIAISON REPORT – Bridgewater. The Planning Board reviewed the project and it was tabled. They are waiting on action from the Zoning Board of Appeals. As it stands now, all approvals for the project have expired. With the experience Conrad has professionally in development work, he would like to see the Board rescind the Negative Declaration, and revisit the project. New information has been presented that needs to be reviewed. Previously there was automotive use of the site with buried fuel tanks. A soil study should be done, to check for contamination. A traffic study should have been a requirement.

Conrad believes the Board received some bad advice from the previous Town Engineer, but nothing that would be the Board's fault. This will give the Board a fresh opportunity to re-look at the project with more appropriate scrutiny.

Conrad feels it meets the criteria for a Type 1 Action, and requires a Full EAF with a coordinated review and scoping sessions which would result in the Board issuing a Positive Declaration.

Brochey agrees one hundred percent. It would be difficult for the two to vote on something without going through the project again.

Conrad MOVED to rescind the Negative Declaration for the Bridgewater Estates, LLC project, Seconded by Bax

Davis said this development is the subject of litigation but that does not prevent the Town Board from rescinding the Negative Declaration because they never obtained the permits and the approvals have lapsed.

Carried 5 – 0.

Davis said the project has gone to the Planning Board, Environmental Commission and came before the Town Board. It is going back to the Planning Board for a Special Use permit.

Masters asked if they will be required to pay the fees again and are they starting as a new project.

Conrad said that is how it should be. They did not take action when they should have. Any other development projects; when things expire you have to go back and redo it.

Davis said the SEQRA Negative Declaration has not expired, the variances expired. They were granted and expired because they did not obtain the building permit from the Town.

COUNCILMAN MARRA

UNSAFE BUILDING– 2904 Upper Mountain Road - This property has been in violation of the Code of the Town of Lewiston since September 30, 2013 for exterior structure, clean-up requirements and infestation. Bees have infested the wall on the southwest side of the building, which has prevented the neighbor from using their side yard. The Building Inspector is requesting hiring an exterminator and placing the cost on the property tax.

Davis said there is a section of the Town Code regarding unsafe buildings, which entails demolition. This building does not need to be demolished, only a portion of it is unsafe, that being the bees nest. We have since learned they are honey bees.

Masters will work with the owner to allow someone to remove the bees. There usually is not a cost associated with the removal of honey bees as they are an asset.

Marra MOVED to authorize the Building Inspector to remediate the removal of the bees at 2940 Upper Mountain Road, Seconded by Bax and Carried 5 – 0.

RECREATION HIRE – Dashineau requests board approval

Marra MOVED to hire Zach Dowsy, Laborer – PT at the rate of \$8.25/hour, Seconded by Winkley and Carried 5 – 0.

Marra announced that the Lewiston Police will be holding a memorial service for Lewiston Police K-9 Radar on June 28th, at 7:00 pm at the Lewiston Dog Park.

Town Budget – At the April Board meeting Finance Officer Kloosterman said that 2013 went pretty well. At the May Board meeting Kloosterman reported there is a \$700,000 deficit from 2013, and Lewiston could have the same short-fall, or there about for 2014. Some of the Councilmen were troubled by this and did some research.

Winkley and Marra set a meeting with Town Auditor Patrick Brown, Brown & Co., for explanation. We inquired if there was a deficit in 2013 or projected one for the current year, and Brown answered no on both counts.

These are the facts. Mr. Brown reported that the Town of Lewiston was favorable to the over-all 2013 budget by \$460,541. Also, if the Town adheres to the 2013 budget for the remainder of this year, there will be no short-fall for the current year.

Discussion went to the NYPA – H-97 – Infrastructure Account. This is used for roads, waterlines, sewer lines, capital improvements, and economic development. This has a healthy \$2.8 million surplus. The Town will be receiving an addition \$850,000 from NYPA this summer.

Mr. Brown provided the Moody's Investors Service Bond and Financial Outlook for the Town. Moody's sets short-term, long-term bond ratings as well as financial outlook going forward. The bond rating Lewiston had was for 2013, and a new one will be available in a couple of weeks. Moody's expects the Town to maintain a strong financial position with healthy reserve levels.

Recently it was reported that Lewiston is over bonded. Mr. Brown said this is not the case and Moody's says Lewiston has a very manageable deposition and issues Lewiston a short-term bond rating of Prime 1, the highest. Prime 1 is defined as "issuers rated Prime 1 have a superior ability to repay short term debt obligations." Long-term for the Town is AA. AA is judged to be high quality and is subject to very low credit risk.

Marra and Winkley asked Brown about challenges facing Lewiston going forward; Brown responded "The A-fund is the issue, and this is something that has been discussed at Town Board meetings for more than a decade." The fixed costs of health care and pensions are required to come from this account, instead of a revenue account.

The State recommends a 10% fund balance and the Town currently has 12%. This definitely needs to be addressed sooner than later.

Brown did say Kloosterman has contacted him regarding the budget, and encourages him to continue to do so, he can not ask for a better resource. Brown has 25-years of government accounting.

Brown will review his report at the July meeting.

Winkley said Brown said all is pretty strong. No one wants to go into the reserve fund. All Board members will work together and move forward to accomplish this.

Kloosterman is working on a Capital Improvement Plan and this will help with that. Projects have been sitting for years and years and they need to be worked out. Quite a few of them are public health safety issues.

Winkley said a report received from Brown & Co. shows there is a \$460,541 favorable balance to the Town. Once Greenway dollars are reimbursed for improvements done at town parks and Joseph Davis State Park, the Town will be more like \$600,000 in favor.

Kloosterman said the \$460,000 is based on income and expenses associated with the budget. Although this is a good balance, the Town still ate into the fund balance. Four years ago the Town used the fund balance for about \$400,000 of the budget, and the budget for 2014 is \$1.25 million. On a \$16 million budget, that is an alarming pace.

The water and sewer budget are in great shape, but the Board needs to concentrate on A, B, & BD funds. These are the funds with issues, and this is what will result in a town tax. The Town has not funded the Highway Dept. adequately for paving for years. They get \$100,000/year; they should get \$500,000/year when the math is figured. The bond that the Town will start paying back will be hitting the highway dept. for about \$200,000/year, which equals \$700,000/year.

Winkley discussed this with Brown and he said it was a better way to fund it at the time, there may have had to be a highway tax. With the bond rating being so low, and the money so good at the time, it was a wise thing to do.

Winkley said once greenway money is back there will be a favorable balance. The Town will need to go into the fund balance by \$500,000, which is close to what the Town has been doing for the last couple years.

Kloosterman feels this is why it is important to sit with each Councilman to discuss these items. A program needs to be created to move forward and not to allow a town tax. Hard decisions need to be made.

Winkley said previous Finance Officer Johnson has been saying that. It is the fixed costs the State puts on the Town that are killing the budget.

Conrad wants to be aware of the "decisions that need to be made", so he can start to think about them. As the newest member of the board, he is trying to get up to speed on these things. Kloosterman said he would sit down and go over budget items at anytime. There needs to be an open line of interaction.

Marra said Pat Brown will be at the July meeting to discuss this. He will say there was not a \$700,000 deficit from 2013, Marra assures the Board of that. Kloosterman said, what he distributed to the Board is what Pat Brown gave to him.

Winkley said the Town has a budget, we say we are going to spend this much, we are going to bring in this much money. The difference between this much money, when the fund balance is used, at the end of the year we end up spending \$460,000 less than was anticipated.

Kloosterman said the Board needs to look at fund balance net position, not fund balance in general; the unappropriated balances need to be looked at. There is approximately \$2 million in

fund balance in H-97. That is what it was at year end. The Board looked at the position of the account in total, \$800,000 of that is committed, it's gone. That is why it is important to sit down and go through this.

COUNCILMAN WINKLEY

Winkley would like to start a discussion on an exit plan for Joseph Davis State Park. The Board needs to make a decision on what the Town is going to do. Either be done or move ahead with it. This is one of the expenses that keep coming at us.

Bax attended a meeting at Joe Davis today with Mark Thomas of State Parks, Supervisor Brochey, Tim Masters and Kloosterman. There are a lot of things that need immediate attention at the Park. There is a big decision to be made. A punch list was given by the State. The concern that all have is the legacy costs moving forward and having to maintain this. Recreation Director Mike Dashineau has taken on the park and there are many chores that need to be done.

State Parks and Supervisor Brochey have committed to replacing the roofs on several buildings, with the State supplying the manpower.

Winkley recommends Dashineau, Johnson and Kloosterman attend the July Host Community meeting to ask for the monies. They are familiar with the projects.

ADDITION TO UPPER MOUNTAIN FIRE COMPANY

Winkley MOVED to add Cullen Ball, 5102 Bronson Drive to the Upper Mountain Fire Co. Roster, Seconded by Bax and Carried 5 – 0.

Bax MOVED to enter into Executive Session for the purpose of Police Grievance, Union Contract and discussion on matters concerning the wages of a particular employee, Seconded by Conrad and Carried 5 – 0. (8:00 pm)

PRESENT: Supervisor Dennis Brochey; Councilmembers Bax, Conrad, Marra, and Winkley; Town Attorneys Davis and Seaman; Finance Officer Kloosterman

Discussion on police grievance, union contract and wages of a particular employee.

Brochey MOVED to exit Executive Session, Seconded by Bax and Carried 5 – 0. (9:00 pm)

Bax MOVED to increase wage of Barbara Travis by \$.71/hour for part-time position of 16 hours/week, Seconded by Conrad and Carried 5 – 0.

Motion by Brochey to eliminate position of Internal Claims Auditor, no Seconded.

Winkley MOVED to adjourn the meeting, Seconded by Marra and Carried 5 – 0. (9:16 pm)

Respectfully Transcribed and Submitted by:

Donna R. Garfinkel
Acting Town Clerk