

Present: Supervisor D. Brochey; Councilmen A. Bax, B. Ceretto & Wm. Conrad; Dep. Sup. S. Edwards; Eng. R. Lannon; Attorneys M. Davis & B. Seaman; WPCC Ch. Oper. J. Ritter; Building Inspector T. Masters; Director of Finance P. Kloosterman; 3 Press; 10 Residents and Dep. Clerk C. Schroeder

Excused: Councilman R. Winkley

The Supervisor call the work session to order, followed by the Pledge of Allegiance and a moment of silent reflection.

#### *AGENDA*

**Bax MOVED to approve the agenda, as drafted. Seconded by Conrad and carried 4-0.**

#### *ABSTRACT*

**Ceretto MOVED to approve the Regular Abstract of Claims Numbered 4103 to 4300 and recommended payment in the amount of \$284,735.06, plus a post audit of \$357,152.89. Seconded by Bax and carried 4-0.**

#### *DEPARTMENT HEAD CONCERNS*

The Town Clerk, Donna Garfinkel, said she had a conversation that day with Attorney Seaman regarding setting a date for the referendum on abolishing the Office of Receiver of Taxes and Assessments. She said she would like to table this until the RTBM on 1/26 so she and the Attorney can write the proposal that will go on the ballot. We know there will be time constraints with regard to absentee ballots. We want to make sure we have everything in line before we actually set the date. She hoped to hold the referendum in late March or within the first two weeks in April. No action taken.

Next, the Town Assessor, Linda Johnson said she has been researching updating property values in the Town and Village. Our equalization rate is 79%. I just got State numbers stating that this rate is going to drop quite a bit. Our values are coming up 20-30% higher than where we are at. We already met with one firm and we will meet with a couple other firms to try and to this update over a two to three year period and to try and budget it that way to get the most effective cost that we can. Once we get to that point where we are ready to review this, I will be approaching the Board on a monthly basis to let them know where we are at, and then a final meeting to review and decide if we are even going to be able to do this. Commercial properties in the Village and Town have not been updated in a long time. The beginning process of that would be a data update. Data inventory has not been done since 1994. That is something I actually started last year. I sent surveys out, and out of 7,000 properties, I got about 75% of those back. Those are data updates as far as inventory. Most of the Town people were very open to that and sent me all this information. That will be a beginning step with working with the companies. These values are coming in and there is no way to try and adjust them or change them. They are what they are. We need to do the data update first, then commercial property and residential. There will be deadlines and timelines to get it done and get us to 100%. We're hoping to do it in conjunction with a company and try and budget over the three years with the 1) data; 2) commercial and 3) residential. All of that will be presented in a RFP (Request for Proposal) plan. Once we get to that plan, that is what we will be reviewing as to how we will be able to do this, what the cost will be, any savings we might be able to offer with the Assessor's Department. These companies are very open to working with us for cost savings. This is just the first preliminary step that I'm taking to make sure the Board knows all the public relations that is going to have to go out once we start this process. At least my Board will be aware that I'm working towards this and it won't be a surprise. I'm hoping to get the final figures by the next meeting to let you know where we are going to be as far as where the State is going to put our equalization. Last year to this year, it has just blown me away. I thought we were going to level out. These levels are coming in constantly 20-30% higher than what we have them assessed for. I don't see that stopping and it is affecting us. Those are the things we are going to try and address.

Kloosterman: That is one of the important things, looking at the impact of what it will be to come to 100%. On top of that setting up policies and procedures that are strictly adhered to to stay at 100% going forward and how that will affect our taxpayer's. Once you get some more data information, I can help you figure that out.

Johnson: The bottom line is we want to get to a spot where we are at 100%, and getting a full impact of our exemptions. My reason for being here tonight is keeping my Board informed, and on a monthly basis I will.

Lastly, the Supervisor announced an Electronic Waste Drop-off for Lewiston residents. The Town Clerk said it will be held on Saturday, January 17 from 9 – 2 PM at the Highway Garage.

The Supervisor said he received an unusual email that the Town of Lewiston is not a Registered Recycler. He asked if this is something that should be done first. The Clerk said the Highway Supt. should have this all in place before collecting any material. If that's been done, I can't answer that, she said. I don't know if any of that paperwork has been submitted.

Bax said there was some communication on Friday between Niagara County Waste Disposal and the Highway Supt. to make sure the Town was up to speed on all the paperwork it needs to have by the 17<sup>th</sup>. Mr. Janese is aware he has to be compliant with the DEC and these regulations.

Supt. Janese arrived at this time. Janese said the paperwork has been submitted to the State. He said Dawn Timm, from the County Landfill, has been an invaluable resource. It's a learning process. Ms. Timm has been super helpful. 95% of the credit should go to her. I believe we have everything in place now and we should be fine for this weekend. We have all the provisions to store the material inside.

At this time, Janese asked to be excused to oversee clean-up of the roads.

#### *ARTPARK & CO*

The Supervisor said he has had the pleasure to meet with George Osborne and John Camp about Artpark. They requested to speak to the Town Board regarding a proposal they would like to share with the Board.

John Camp introduced himself as Chairman of the Artpark Board and introduced George Osborne, President. Also in attendance were several Artpark board members. Camp said he was here to talk about Children's Programming. He thanked the Board for reinstating the Modern Tipping Fees for 2014. Artpark, in turn, agreed to pay \$40,000 for reimbursement of police patrol. We were advised that the Town would not be able to continue to give Artpark the tipping fees for 2015. We've accepted that. We understand the fiscal situation of the Town. Dennis came to our Board, along with Paul Kloosterman, and made a presentation to our Board about the financial situation of the Town with an appeal for us to continue to reimburse the Town for the out of pocket expenses associated with the police. An idea came up at our board meeting for a way to develop a more permanent source of funding for our family programming by expanding our VIP seating at Artpark.

The way Artpark works is we generally make most of our money on the Tuesday night concerts, some on Wednesday and we use some of those excess funds to fund our other programming, including our family programming that we don't make a profit on at all. Our Programming costs, excluding musical costs was \$220,000 in 2013; \$234,000 in 2014 and \$294,000 is projected for 2015. We are not wavering because of the loss of the Modern tipping fees. We are looking to expand our family programming. That is part of our strategic plan to get back to more of where Artpark was 20-30 years ago. You can see that the sources of revenue for that family programming in 2013 accounted for more than 50% of the program costs and we had a shortfall of \$53,000. We take the money we make on Tuesdays at the Park and use that to fund the offset. The offset in

2014 was \$75,000 because we expanded our programming. Looking forward with the programs we want to run in 2015 and the loss of the tipping fees, we have a shortfall of \$192,000 that we have to fund with the revenue from Tuesdays.

What we would like to do is capitalize on a suggestion made by Assemblyman John Ceretto at our board meeting which is to explore the feasibility of having the Town assist Artpark in expanding its VIP Seating to bring in more revenue on Tuesdays which then can be used to fund its family programming and at the same time ensure that Artpark is paying Lewiston for their out-of-pocket costs of the police. On Tuesdays, we have a waiting list for the skyboxes and we're exploring that with an expansion. We've run this design thru State Parks and they are happy with the design. This allows us to increase our revenues to continue to expand programming. We want to have more family programming and we want to have more programming earlier and later in the season. We've begun discussions along those lines with the State Parks and they are in agreement with it.

We are not creating a situation where we are bringing in any more people into the Town of Village because we've capped the number of people by the capacity of the outdoor amphitheater. What we need to do, if we go forward with this VIP seating plan expansion, is to commit "x" number of dollars. The estimate is \$750,000. We would have to commit to spending that and over a period of time be able to re-coup some of that with the sale of the additional skyboxes. But, since this is an enhancement to a park from a waterway, which is really a sweet spot of where the Greenway proposition is recommended where these monies be spent. It could be viewed as a win-win to utilize the Greenway funds that the Town is allocated for this purpose of expanding our programming at the same time it would allow us to increase our revenue which would give the Town the assurance that Artpark would continue to reimburse police costs. That is the proposition. I'm happy to entertain any questions.

Brochey: Once this is all done and completed, can we assume you are going to continue hereafter for years to come to pay for the police costs.

Camp: Just like your budget, it's hard for us to project that far into the future. I would say yes, we would want to continue to partner with the Town and Village. We want to continue to expand Artpark. We have some ambitious plans to potentially winterize the theater and make it a year-round destination. We have a potential plan to build an arts and crafts center to make this a year-round destination, as well. State Parks is very much on board with making Lewiston and Artpark more of a destination for tourists, much like Fort Niagara, the Niagara Power Vista and Whirlpool. We met with Mark Thomas with the State Parks. He is very excited about the direction that we are heading in.

Brochey: I like the proposition. I think it's a nice plan. It looks like it's going to be a good money maker if everything goes according to plan... Are you looking for the full funding or half the funding? My opinion is to do half the funding. I can't see us spending the whole thing when we could have a large project going up ourselves. I don't want to put ourselves in a predicament. The Land Conservancy is asking for money also – \$150,000 for two years.

Cook: Obviously, we would be delighted if we could find a way to fund the entire capital investment using greenway funds. If that doesn't meet with your prioritization with other projects, we're still willing to talk about things that will be a mutual benefit... We need a partnership with you, and the Village and the State Parks to make this work and make it better.

Conrad: On this particular project, what is the likelihood that you would move forward with it without assistance from the Town?

Cook: I would say it is probably likely that we would move forward with it one way or the other. It is something that we have already been planning to do. It's not a make or break situation, but it came up as an opportunity for mutual benefit so we wanted to pursue that. It's a relatively small amount of capital compared to some of the other

projects we are looking at. It also gives us a good return on the revenue side fairly immediately.

Conrad: What is your timeframe for this project?

Cook: We would like to begin after the 2015 Season. It would be open for 2016.

Osborne: This is going to impact us because we are eating the \$110,000 that you took away from us from the Modern Fees. We have to make up that deficit. This year, we're eating \$192,000 from our operating budget. We need to get this thing settled so that my successor won't be stuck with a big deficit so he can do a lot of good things for Artpark. But, the truth is, in order for this to go under construction by the end of this summer, we have to start committing dollars fairly quickly. We've committed enough money to get this sketch done which was rather small but the next design phase will cost us about \$20,000. I don't think our board wants to commit \$20,000 unless we have some sense we're going to get some of this funded. I think it would be a big plus if Lewiston would recommend some kind of funding from the Greenway.

Brochey: I can assure you that we will be talking quite a bit about this over the next month to see what we can do for Artpark. We want to see you grow but at the same time I'm always concerned about Town finances. We want to get ourselves in a good position financially but at the same time if there is something we can do elsewhere we will work on that for you. Hopefully, somewhere in the next month, we will have an answer for you.

Edwards: One thing, the State has sponsored many Greenway projects in the past. This is a great project that maybe you should involve the State. The State Parks has sponsored many projects that we have approved thru the Greenway Commission.

Osborne: The only sources we have for Greenway Funds for Artpark are State Parks, Niagara County and the Town of Lewiston. Those are the only three sources we can go to. We've been to State Parks. They've committed all their money and more to what is going on at the Niagara Falls State Park. They are doing a \$25,000,000 renovation. I've been to Niagara County. We got Bill Ross to support us but they won't give us any money because we are in Lewiston and they say the Town of Lewiston should fund us with the Greenway money. We have gone to the three sources. The State, per se doesn't have any money. The Greenway Commission has no money. They just make recommendations. The Host Community has the money. I don't think there is a chance that State Parks would fund this project.

Edwards: If the Town were to apply to the Greenway for recreation at whatever number that may be that we are going to provide for our citizens, it would more than likely go thru under recreation – part of the Greenway plan. Economic Development is on the backside. It's the Greenway – the waterfront, quality of life, etc. I think it's more appropriate that we provide services for recreation for our citizens and you do what you may as far as capital improvements. It's just a suggestion. I don't think a Capital Improvement project is something to go thru.

Camp: We're receptive to anything to mutual benefit. If you think that is a better way to secure the funding and makes more sense that's fine. Let's work together to see what the best way to proceed is.

Brochey: Sean is my Deputy Supervisor. He's going to work with us on the best way to handle this so that it doesn't procrastinate and take longer than it should.

Ceretto: The Village residents, when they see a picture of this building, are going to be concerned that you're going to raise the number of patrons.

Camp: No, we are not. We have an agreement with State Parks that we will not have more than 10,000 attendees for any of the outdoor amphitheater shows. That is not changing.

ASSOCIATION OF TOWNS

The 2015 Training and Annual Meeting of the Association will be held in New York City, February 15-18, 2015. This is a training session for town officials.

- a) Authorize payment of Annual Membership Dues: **Bax MOVED to authorize payment of \$1,500.00 for Annual Town Association Membership Dues for the year beginning January 1, 2015, as authorized by Article 8 of the Town Law, Seconded by Conrad and carried 4-0.**
- b) Approval of Attendance: **Bax MOVED to approve attendance for Town Officials to the 2015 Training School and Annual Meeting of the Association to be held in New York City, February 15-18. Seconded by Ceretto and carried 4-0.**
- c) Selection of Voting Delegate/Alternate for 2015 Business Session: **Bax MOVED to appoint Dennis Brochey Voting Delegate. Seconded by Conrad and carried 4-0.**
- d) Resolutions 1-9: **Bax MOVED to approve the reported 2015 AOTSNY Legislative Resolutions to be voted by the delegates at the annual business session. Seconded by Ceretto and carried 4-0.**
- e) Set Per Diem Food Allowance: **Bax MOVED to set the 2015 Food Allowance for the Annual Meeting at \$350.00. Seconded by Conrad and carried 4-0.**

*PERSONNEL:*

- a) After working for the WPCC for 36.6 years as Maintenance Crew Chief, Leslie Frey announces his retirement effective January 31, 2015.  
**Bax MOVED to accept Mr. Frey's retirement, with regret, Seconded by Conrad and carried 4-0.**
- b) Robert Nablo, Water Department, submitted notice to the Town Board that Jeff Dell has fulfilled his Civil Service requirement to change his job classification from Laborer to Water Maintenance 1. The Teamsters contract states that the entry level starting wage shall be two dollars less than regular wages. After six months of service, the wage shall be \$1.50 less than the regular wages. After twelve months of service, he shall receive the full hourly rate for said job classification. Currently, a Water Maintenance 1 rate is \$25.56 per hour. Mr. Nablo recommends an hourly rate to the entry level of \$23.56 per hour.

After lengthy discussion of Mr. Dell's service, **Conrad MOVED to change Jeff Dell's job classification from Laborer to Water Maintenance 1 at an hourly rate of \$25.56, per the Teamsters contract. Seconded by Bax and carried 4-0.**

- c) The Board received a request to approve one PERSONAL DAY carryover each for the following employees: Richard Dreier, Rosalie Kilmer, Martin Lauer, William O'Connor and Kevin Norwich.  
**Bax MOVED for approval. Seconded by Conrad and carried 4-0.**

*SEWER CREDIT*

Brochey referred to a request from Michele Donato, 5259 Hewitt Pkwy for a "sewer credit" on her water bill. She had a pool liner replaced in October. The credit would be \$67.69.

Jeff Ritter said he wanted the Board to be aware the WPCC takes a hit with these sewer credits. Bax said they should come up with a policy when pools are refilled. Ritter said there is a sewer use agreement of a one-time deferred cost if one has a building permit and the pool is filled. Other than that it is the Board's discretion.

**Bax MOVED to approve the sewer credit of \$67.60 to Mrs. Donato, Seconded by Conrad and carried 4-0.**

Bax directed the Town Attorneys to re-examine the issue of the pool re-filling policy.

#### *CHANGE RTBM/WS MEETING TIME TO 6:30 PM*

Last month, Brochey said the Board voted to set the meeting start time to 6:00 PM. He asked to change that back to 6:30 PM with Board approval. It's good for the public. He wants it set to 6:30 PM to allow for more transparency. Make it easier so people don't have to rush to get to the meeting. What's another half hour for us?

Bax said Councilman Winkley feels strongly about starting at 6:00. Bax said he had no objection one way or the other. Both Ceretto and Conrad liked the earlier start. Conrad said this had nothing to do with being transparent. It's how we conduct ourselves and how we conduct our meetings that determine how transparent we are. I don't think the argument about being transparent is really relevant to this.

#### *CHANGE 10/8 WORK SESSION DATE*

It was noted this was the same night as the Zoning Board meeting. The Bldg. Insp. offered to move the ZBA to another room but the problem being he did not know what would be on the agenda. At the last meeting it was standing room only, he said.

Bax **MOVED** to change the October Work Session to a date to be determined. Seconded by Conrad, for discussion.

Edwards made a suggestion that the ZBA re-schedule their meeting. It is much easier for the ZBA to re-schedule than the Town Board to perform Town Business.

Bax withdrew his motion. Conrad his second. The October WS to remain scheduled for October 8.

#### *APPOINTMENTS*

These appointments were omitted at the Re-organization Meeting.

- a) Barb Cich, Risk Manager. **Bax MOVED to approve. Seconded by Conrad and carried 4-0.**
- b) Tim Masters, SEQRA Compliance Officer. **Conrad MOVED to approve. Seconded by Bax and carried 4-0.**
- c) Board Liaison, Engineering. **Bax MOVED to appoint Conrad as liaison. Seconded by Ceretto and carried 4-0.**

#### *TUSCARORA RESOLUTION*

Bax said he has been working with the Tuscarora Reservation and their attorney in Washington, DC for some time. The discussions centered on the Southern Boundary of the Tuscarora Reservation. If you look at a current map of the Reservation, you can see there is a jog somewhere in the Southern Border. Bax said he's been told that that jog in the border had historically not been there. In discussing with the Chiefs and their attorney, they provided a resolution whereby the Town of Lewiston will recognize the historical Southern Border of the Reservation. We would shepherd this process to the Niagara County Legislature and then to the State officials. Once we have that trifecta in place, they would bring the same resolution to the floor before Congress for a modification of the Southern Border.

Bax read the Resolution into the record, after which he asked that it be presented to the Clan Mother's and Chiefs at a future meeting.

Whereas, the Tuscarora Reservation was established and confirmed by a series of treaties and other transactions between 1794 and 1809, including the Treaty of Canandaigua, 7 Stat. 44 (1794); a formal donation from the Seneca Nation following the 1797 Treaty of Big Tree; an agreement with the Holland Land Company in 1804; and a deed conveyed to the Nation by the United States Secretary of War Henry Dearborn on January 2, 1908; and

Whereas, the earliest known and most authoritative maps of Tuscarora Reservation territory commissioned by the Holland Land Company in the early 1800s, show that the land comprising

the southern portion of the Nation's Reservation is bounded by a straight line from east to west; and

Whereas, every known map of the Tuscarora Reservation published prior to 1938 likewise affirms that the southern boundary of the Tuscarora Reservation is a straight line from east to west, including maps published by the De Beers Co. in 1875; the United States Army in 1890; the G.H. Walker Map Co. in 1890; the Joseph Rudolf Bien Co. in 1895; and the Century Map Co. in 1908; and

Whereas, these maps were based on surveys made by the Holland Land Company in the early 1800s of the land that forms the southern portion of the Tuscarora Reservation, and these surveys likewise affirms a straight southern boundary of such tracts from east to west; and

Whereas, a map commissioned in 1938 by the United States General Land Office nonetheless incorrectly depicted the southern boundary of the Tuscarora Reservation to jog northward at roughly 78.65°W and proceed west from that point, excising a portion of the Reservation; and

Whereas, the Tuscarora Nation protested the incorrect survey from the time it was conducted; and

Whereas, subsequent maps have nonetheless propagated this incorrect depiction; and

Whereas, federal law prohibits changes to the Tuscarora Reservation boundaries absent consent of Congress; and

Whereas, Congress has never consented to any change in the southern boundary of the Tuscarora Reservation; and

Whereas, the Town of Lewiston believes that clarity and certainty regarding the southern boundary of the Tuscarora Reservation are in the best interests of the Town and its residents, the Tuscarora Nation and its citizens, the surrounding communities, and the State of New York;

Now, be it therefore resolved:

That the Town of Lewiston considers the southern boundary of the Tuscarora Reservation to proceed in a straight line from the Reservation's eastern boundary to its western boundary, as established in the 1809 Dearborn Deed and depicted in the 1890 U.S. Army Map;

That the Town of Lewiston hereby commits to take all necessary steps to ensure that the Town, its agents and its instrumentalities act in accordance with this understanding of the location of the southern boundary of the Tuscarora Reservation; and

That the Town of Lewiston calls upon the County of Niagara, the State of New York, and the United States to recognize and respect the boundaries of the Tuscarora Reservation, as defined in the 1809 Deed and depicted in the 1890 U.S. Army Map.

**Bax MOVED to authorize the Supervisor to sign the Resolution. Seconded by Conrad.**

Attorney Davis said it is his understanding that this is a show of support, not necessarily a formal action being made by the Town Board. Bax said because the Town is a bordering municipality, so to speak, they wanted a Resolution issued by the Town. The Town is not deeding or changing any titles. We are just supporting their efforts.

After advice from Counsel, **Bax MOVED to amend his Motion to reflect that the last paragraph in the resolution reads as follows: *That the Town of Lewiston calls upon the County of Niagara, the State of New York, and the United States to recognize and respect the true boundaries of the Tuscarora Reservation.* Conrad amended his Second. Carried 4-0.**

WPCC

- a) Camera Bids: Ritter noted that sealed bids were received for the Long Range CCTV Pipe Inspection Crawler on Jan. 7. One was for \$71,000 (Cyncon Equipment, Inc. and the other for \$79,000 (Joe Johnson Equipment USA, Inc. This is from funding from the Niagara County Sewer District. Attorney Seaman worked out a 4-year installation purchase contract under Alternate #1 of the bid packet. Ritter

recommended that the Board award the contract to the lowest bidder. Attorney Seaman offered the following Resolution.

WHEREAS, the Town of Lewiston solicited sealed bids for the purchase of a Long Range CCTV Pipe Inspection Crawler; and

WHEREAS, the bid documents contained a cash purchase price and alternate for 4-year and 5-year installment purchase contracts, and

WHEREAS, sealed bids were received by the Town and Joe Johnson Equipment USA, Inc. was the low bidder for cash purchase and for each of the installment purchase alternates, now therefore be it

RESOLVED that the Contract for the purchase of a Long Range CCTV Pipe Inspection Crawler be awarded to Joe Johnson Equipment USA, Inc. as a 4-year installment purchase contract under alternate #1 of the bid document, with the Town making one payment per year for four years, each in the amount of \$18,570.29 as per the bid documents and bidder's proposal, and be it further

RESOLVED that the Supervisor execute said Contract on behalf of the Town.

**Conrad MOVED to approve the foregoing resolution, Seconded by Bax and carried 4-0.**

*CWM Model City Facility Environmental Issues – 50K Funding*

The Finance Director asked if the Board has made any decisions on the second round of \$50,000 funding.

**Bax MOVED to continue the CWM Funding of the Environmental Attorney. Seconded by Conrad and carried 4-0.**

*Selection of nominee for Citizen's Award/Chamber of Commerce*

Ceretto said she wanted to remind the Town Board to nominate a Lewiston resident for the Citizen's Award by month's end.

Lastly, Eng. Lannon asked for authorization to advertise for the demolition of four buildings at Joseph Davis State Park.

**Bax MOVED for approval. Seconded by Conrad and Carried 4-0.**

**Bax MOVED to adjourn. Seconded by Ceretto and carried 4-0. Time: 8:05 PM.**

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk