

Present: Supervisor D. Brochey; Councilmen A. Bax, B. Ceretto, Wm. Conrad & R. Winkley; Dep. Sup. S. Edwards; Eng. R. Lannon; Attorneys M. Davis & B. Seaman; Police Chief C. Salada; Building Inspector T. Masters; 3 Press; 6 Residents and Dep. Clerk C. Schroeder

Excused: Highway Supt. Janese, WPCC Ch. Op. Ritter

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

#### *AGENDA*

**Winkley MOVED to approve the agenda, as presented. Seconded by Bax and carried 5-0.**

#### *ABSTRACT*

**Conrad MOVED to approve the Regular Abstract of Claims Numbered 4301 to 4712 and recommended payment in the amount of \$633,762.79, plus a post audit of \$15,500.03. Seconded by Bax and carried 5-0.**

Conrad said he has audited the abstract for some time. Certain information is missing on some of the vouchers, i.e. an invoice number, department name and fund appropriation. Some of the vouchers say "see attached." If the invoice gets separated from the voucher, there would be no way to marry them up without invoice numbers on the voucher. Some the vouchers have been copied numerous times to the point they are eligible. To make the system better, the department head should include a new, legible voucher, he said.

#### *DEPARTMENT HEAD CONCERNS*

- a) The Town Clerk, Donna Garfinkel, requested payment of 150 unused sick-days accumulated during her 23-years as an hourly employee. This would be paid using her hourly rate from 2013. This has been past practice when an hourly employee becomes an elected official.

**Winkley MOVED to approve payment to Donna Garfinkel for 150 unused sick days at her 2013 hourly rate. Seconded by Conrad and carried 5-0.**

- b) The Town Clerk requested the Town Board set April 14, 2015 for a Special Election abolishing the position of Receiver of Taxes.

Attorney Seaman said they could pass a motion to set the date tonight but the Board will have to adopt a more detailed resolution with additional information, such as where the election will be held, hours and the exact wording of the ballot. We can have that ready for the next meeting.

**Bax MOVED to set the Special Election date of April 14, 2015 for the purpose of abolishing the Receiver of Taxes position. Seconded by Conrad and carried 5-0.**

The Town Clerk asked the Board how they felt about having the Special Election at the Town Hall as they did with the Referendum on the Civic Center. They would have three machines and inspectors working three different shifts. The hours would be 6 am – 9 pm. The Board said they were okay with this.

#### *RESOLUTION FOR HIGHWAY TRUCK PURCHASE*

Attorney Seaman said he is waiting for some information from the Highway Supt. He was assured he would have it by the next meeting.

## *SET PUBLIC HEARING TO AMEND L.L. #5, 2014*

Attorney Davis said the amendment would be an extension of the moratorium vs. revising the existing Landfill, Solid Waste law. He recommended the Board set the public hearing tonight for the purpose of extending the moratorium. Davis said he would work with Eng. Lannon on revising the law on the disposal of sewage, sewage sludge and septage.

**Winkley MOVED to schedule a Public Hearing on February 23, 2015, prior to the RTBM, beginning at 6 pm, for the purpose of adopting a local law amending L.L. #5, 2014, providing for an extension of a moratorium on the disposal of sludge, sewage sludge and septage. Seconded by Bax and carried 5-0.**

## *SEWER USE AGREEMENT*

Attorney Seaman said he spoke with the Jeff Ritter from the Treatment Plant as to changes to the Sewer Use Agreement having to do with the pool liner issue. Based on the language in the agreement and what was discussed at the last meeting, they determined that no amendments are needed. We can just go forward with the language that was used previously. It will cover what the Board talked about at the last meeting.

## *CLERK'S CORRESPONDENCE*

1. The Clerk read the following correspondence from Jean Eber & Nancy Deering for the record: We would strongly urge you to keep the starting time of Town Board meetings at 6:30 pm at the very earliest, or preferably move it to 7 pm. This would allow residents, especially those who work and do not arrive home until 5 pm or later, an opportunity to see to or share dinner quickly with their families and yet attend the meeting at 6:30 pm or preferably at 7 pm to express their opinions to you. Some may wish to come to keep abreast of your issues. You all, we are sure, would like to assure residents that you ran for office to represent them and would, therefore, seek to give them every chance to attend your meetings and inform you of their concerns or be up to date about their town. Such is the desire of Town Board members in other communities around us. We have made a survey by phone of meetings of Town Boards in Niagara County and researched Erie County Town Board meetings as listed in the Buffalo News, January 18, 2015, as follows: Niagara – 7 pm; Wheatfield – 7 pm; Hartland – 7:30 pm; Newfane – 7 pm; Cambria – 7 pm; and Porter – 7 pm. Towns of Erie Co: Akron – 8 pm; Amherst – 7 pm; Aurora/E. Aurora – 7 pm; Clarence – 7:30 pm; Elma – 7 pm; Boston – 7:30 pm; Blasdell – 7 pm; Cheektowaga – 6:45 pm; Grand Island – 8 pm; Lackawanna – 7 pm; and Orchard Park – 7 pm.

Do their elected officials feel that transparency in government is more important than you do? It seems little enough in the interests of democracy to ask that for the two times a month you hold Board meetings you could not begin a half hour later at 6:30 or better yet 7 pm. This would enable more of your constituents to come and speak or simply sit and listen to the concerns of fellow residents. We think you would welcome the opportunity to learn their opinions. Please continue Supervisor Brochey's recommendation to meet at 6:30 pm so that every resident can attend if they wish. Thank you for your consideration.

Ceretto: I had the Clerk's office check and from 2009 – 2013, our meetings started at 6 pm. They didn't change until 2014 at 6:30 pm.

Winkley: I haven't seen a single person, more or less, at the meetings since we changed it to 6 pm. I've never seen either of these people (Eber or Deering) at a Board meeting.

Ceretto: It's not like it's a closed door. They can come late.

2. The Clerk acknowledge receipt of two applications for On-Premises Alcoholic Beverage License for Niagara University (Castellani Art Museum & St. Vincent's Hall).
3. The Clerk's office received an email communication from Brianna Thurman for a 5K race on August 8, 2015 starting at 9 am. The course starts at 5269 Lewiston Road (Sacred Heart Villa School), heads north on Rt. 104 to Mt. View Drive. The

course goes thru Mt. View Drive and back out to Rt. 104 heading south, ending at Sacred Heart Village School. They would like to section off the right land for the length of the race with an officer at the intersection of Rt. 104 and Military Road to control traffic.

Chief Salada said there is a significant lane closure they are looking for from Sacred Heart Villa to Mt. View and back. They want that lane shut down for that whole time. Salada said he wanted the opportunity to talk to these people first, as well as the DOT, before any approvals are given.

#### *CELL TOWER CO-LOCATION RENEWAL*

The Building Inspector said that based on recent discussions with cell tower and collocations owners regarding refusal to pay annual fees, and the need for continual oversight and communication between the Town and these owners, we would propose renewal fees for collocations be decreased. The Bldg. Dept. recommends collocation annual fees drop to \$200 per year, as the tower owners maintain the tower and surrounding areas, whereas collocations merely inhabit one spot on these towers.

Collocation renewal fees cover the time and expenses of the Bldg. Dept., Code Enforcement Officer and Wind tower Committee who will review, track and oversee proper maintenance of the facilities in keeping with the Town Code. There will be annual inspections to occur when the permit is up for renewal, and proper emergency contacts should be maintained between the Town and tower/collocation owner throughout the year.

Chapter 22B-4-A(1)(a) reads as follows:

The application fee for the construction of a communication tower/or similar facility shall be \$1,500. This is the basic fee. There is an annual renewal fee of \$1,000. The application fee for any collocation shall be \$500, with an annual renewal fee of \$1,000. Permit fees are nonrefundable and may be changed from time to time by Town Board resolution.

The proposed change to Chapter 22B-4-A(1)(a) should read:

The application fee for the construction of a communication tower/or similar facility shall be \$1,500. This is the basic fee. There is an annual renewal fee of \$1,000. The application fee for any collocation shall be \$500, with an annual renewal fee of \$200. Permit fees are nonrefundable and may be changed from time to time by Town Board resolution.

The Building Inspector said tower owners are not opposed to paying fees to cover his inspection expenses. Their contention is that we charge a \$1,000 renewal fee for the tower itself and we are also charging a \$1,000 renewal fee for every collocation on the tower which they said was not justified because to go out and do an inspection on the tower the collocations are already there. Why are we charging \$1,000 for each collocation? Masters said his recommendation is to change the fee in the code from \$1,000 for a collocation renewal to \$200 just to cover our cost for keeping the information current.

Winkley said they could set a public hearing to amend the Town Code at its next meeting.

Seaman: There is some case law that talks about having to establish a record as to what your expenses are. You can't charge a tax. You can only charge a fee that would recoup your expenses. In this particular scenario where it is being contested, you should have some factual findings. You should say we're finding our building department spends this amount of time to do this, this, this and this. We can equate that to a fee to recover those costs. I don't think it is as simple as coming up with a number. You really have to have some factual findings.

Masters said they have already done that. He has that backup information. Seaman said they could incorporate that into the public hearing and into the code itself.

#### *1001 N. HEWITT DRIVE STREET LIGHT*

Conrad said he is in receipt of a proposal from National Grid for the street light in the vicinity of 1001 N. Hewitt Drive. The cost would be \$90.82 per year to have that light installed. If the Board agrees to move forward with this, the next step would be to authorize the Supervisor to sign the agreement with NG. Conrad said they would also have to provide specifically where the residents would want that light

**Conrad MOVED to authorize the Supervisor to move forward with the signing of the Agreement with National Grid for the street light on Hewitt Drive. Seconded by Bax and carried 5-0.**

#### *JOSEPH DAVIS STATE PARK DISCUSSION*

The Supervisor said he had a call from Mark Thomas of the Office of State Parks. Mr. Thomas is a little perturbed that the Town is undecided whether we're getting out of Joe Davis Park for sure or not. What he told me on the phone was that they put some money into the park last summer. He said they would not have put a penny into it if they had known we had intentions of possibly getting out. He's assured me he is not going to put another penny into it. Brochey said he is asking for Board direction. Brochey said he had a conversation directly with Mr. Thomas about vacating the contract, but has since heard rumors going around about Mike Dashineau entertaining the idea of not bowing out.

Conrad said he was under the impression that once they cleared up the abatement of the buildings, the town was going to move forward with getting out.

Bax said how this all came down was that the Town had budget issues. We had expenses associated with Joe Davis that were questionable and we got the result of the audit on that. We have a legacy cost whether we stay or go, to abate the asbestos. Then, we have opportunities that present themselves to the Town thru the Recreation Department for various things that could be done. We were addressing the historical mistakes that were made there. We never really took into consideration the ideas that Mr. Dashineau had and expressed to me and some other members of the Board. My only sentiment was, if there is an opportunity there, we should explore it. Since we opened the park, a number of residents have come to me to say how much they have enjoyed it and use it and would like it to be maintained the way it had been, not necessarily overspending unnecessary engineering dollars. If it's next to nothing, like Mr. Dashineau expresses to me, it's not much to maintain on a day to day basis for maintaining it as a park. If we are going to make another Artpark out of it, obviously, that's going to be an expense. He seems to think there are opportunities there, primarily with the concessions that can be paired up with those uses.

Ceretto said there is a Parks & Recreation Advisory Meeting on Feb. 18<sup>th</sup> @ 7 pm. We can hear what Dashineau has to say and hear what his plans are. It was recommended that Mark Thomas be invited to attend this meeting.

#### *LAND CONSERVANCY/GREENWAY FUNDS*

Jajeen Rose from the Land Conservancy was in attendance. When asked, he said the Conservancy would be appreciative of any funding the Town can give from the Greenway Funds. Initially, they had asked for \$300,000 but \$150,000 would be appreciative.

Brochey said since the departure of the Finance Director, he is unaware of how much is available in the Greenway fund for 2015. The Grant Writer, Bernie Rotella, was not aware of the amount either. He said the Town Board would need to make a determination on what type of support it wants to give. We need to take look at the budget to see how much of the Greenway funds have been allocated for specific projects and how much has been contractually encumbered as far as that money goes.

Mr. Rose said when they first approached the Town they asked for \$300,000. One of the ideas was to get a match from the Niagara County's portion of the Greenway funds. That is where the \$150,000 amount came from. If you could offer more, we need more.

\$300,000 is still less than what we need. What we would be using this funding for is the stewardship for the property. The idea is, if we're going to own this, we don't want to come back to the government for operation and maintenance. We have to establish a fund. We estimate our stewardship fund to be \$600,000. That is what we're basically asking the funding for. If it's for the stewardship fund, it can be spread out over multiple years. We have to acquire the property by June and it is my understanding the Greenway monies wouldn't be available until July. That is why the stewardship fund makes the most sense.

Rotella said once you know how much money is available and what the obligation is to that money, then the Board can make a determination on how much to allocate.

Atty Seaman: Is there an application that the Town specifically requires or does it work off someone else's?

Rotella: I think we would go with their Greenway application. The only alteration we would make on it would be the Town of Lewiston being the sponsor. If the Board decides to sponsor this project than it would need to be added as the project sponsor. All we would need is a resolution supporting the project.

Edwards recommended that the Land Conservancy forward a request for funding from the Town of Lewiston's Greenway allotment, along with a copy of what was submitted to the Standing Committee.

#### *WPCC*

On behalf of Jeff Ritter, **Bax MOVED to authorize the enrollment of Kevin Norwich to attend the Great Lakes Laboratory/Wastewater Operator course at Buffalo State College, Seconded by Winkley and carried 5-0.**

#### *STANDARD WORK DAY RESOLUTION*

**Winkley MOVED to set the standard work day of 8 hours for the Account Clerk. Seconded by Conrad and carried 5-0.**

#### *FINANCE – STIPEND*

The Supervisor noted that former Accountant Katelyn Allan will be training the new Finance Director, Martha Blazick for the next few months. He would like to compensate her for her additional time at \$25/hr. Mrs. Allan is currently working salary at the Police Department.

**Bax MOVED to approve a stipend of \$25/hr. to Katelyn Allan for training the new Finance Director in an amount not to exceed \$1,500. Seconded by Winkley and carried 5-0.**

#### *MODERN*

Ceretto said she called Gary Smith and he has offered a tour of the facility where he is going to grow his "new" plants. She asked the Board to come up with a few dates to schedule a tour.

Masters: Is this something they are moving forward with?

Bax: They are moving forward with an application. They need to be selected.

Masters: If he gets his funding, will he be coming to the Town for site plan approval? It is my understanding he has to put up fencing with razor wire and every else. Our Town Code says any alteration of a site which increases the intensity of use in an Industrial District (I-1) has to come to the Town for site plan... I don't want the State to approve it and then all of a sudden we have to play catch-up.

Davis: We will have to look at what Town Laws have to be followed.

*APPOINTMENT TO ENVIRONMENTAL COMMISSION*

**Winkley MOVED to appoint F. Brock Davy, 547 Meadowbrook Drive, to fill the vacancy on the Environmental Commission. Term to expire 12/31/2015. Seconded by Bax and carried 5-0.**

*EXECUTIVE SESSION*

Brochey asked to go into executive session to discuss Contractual Matters (Consultation with Attorneys); Pending Litigation and Collective Bargaining Negotiation.

**Winkley MOVED to enter into executive session for the matters so stated. Seconded by Bax and carried 5-0.** Time 7:05 pm.

PRESENT: Brochey, Bax, Ceretto, Conrad & Winkley

ALSO PRESENT: Edwards, Davis & Seaman

Issues Discussed: 1) On-going Litigation; 2) Collective Bargaining Matter

**Winkley MOVED to exit and re-convene work session. Seconded by Conrad and carried 5-0.** Time: 7:59 pm.

Action Taken:

**Brochey MOVED to retain Brian Doyle to represent Town in PERB matter concerning Teamsters petition. Seconded by Bax and carried 5-0.**

**Winkley MOVED to adjourn, Seconded by Bax and carried 5-0.** Time 8:02 pm.

Executive Session Minutes Transcribed by:  
Brian Seaman

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk