

PRESENT: Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Building Inspector Masters; Town Engineer Lannon; Finance Officer Kloosterman; Highway Supt. Janese; Chief Opt. WWTP Ritter; Recreation Dir. Dashineau; Police Chief Salada; 3 Press; 11 Residents and Clerk Donna Garfinkel

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

TWO MINUTE STATEMENT – RESIDENTS

Stopa-Weis, Alexis – 708 Ridge Road / 4379 Porter Center Road – It is Stopa-Weis's understanding the moratorium regarding Quasar is about to expire. The Code for the spreading of the equate needs to be rewritten and Stopa-Weis questions if this has been done.

Bax does not believe the Attorney has been directed to do so. Wheatfield has drafted one, using those that have been completed. Brochey has Town of Pendleton's and Town of Wheatfield's code and will forward to Davis.

It is not clear as to when the Town of Lewiston's moratorium expires. Stopa-Weis does not want this to be spread and does not want them to be given an opportunity to sneak in.

Davis said it is possible to extend the moratorium, but a more permanent solution would be to draft and pass a law. The time-line needs to be worked out. It should be presented to the Town Board; Public Hearing held and then move forward.

Jolbert, Bill – 4235 Williams Road – Jolbert is also concerned with Quasar. The first thing that concerns Jolbert is that nobody (Board & Attorney) knows when this was passed and when it expires. We want to make sure this is handled prior to the date this expires. There are people in this Town who are financially benefiting by this and will take advantage of these loop-holes to get in.

At the September 8, 2014 meeting, wording was changed to allow for Modern to continue, and not to affect their existing permits. So it is near this time. Nothing has been done in the last five months, that's concerning to Jolbert.

Please direct the Attorneys to get this done. Hopefully this will not be talked about again.

Glasgow, Paulette – 836 The Circle – The Town Board of any Town may establish the Office of Town Attorney, Section 20, Town Law. The Town Attorney appointed in accordance to Section 20, of Town Law, is a public officer.

Any appointed officer of a Town, at the time of his or her appointment, and throughout their term of office, shall be an elector of that Town. (Section 23 - Town Law) No person shall be capable of holding public office who shall not be an elector of the public subdivision or Municipal Corporation he or she shall be chosen or within which their functions are required. (Section 23, Public Office Law)

A non-resident Attorney may not be appointed Town Attorney when other Attorneys reside within said Town. (Section 23 - Town Law)

Where the Town Board creates the Office of Town Attorney, the appointee must be an elector of the Town. (Section 23 – Town Law) An elector of the Town is a resident of the Town is eligible to register to vote in that Town on elections. (Section 23 – Town Law)

If the Town establishes the Office of Town Attorney, until that office is abolished, the appointee must a resident of the Town. (Section 23 – Town Law)

Town of Lewiston Resolution #2 – 2010, offered by Councilman Al Bax, “Whereas the current Town Board now deems it appropriate and necessary and proper to reestablish the office of

Town Attorney. And now therefore it be resolved, pursuant to the authority granted to the Town, by Town Law, Section 20, Subsection 2, the Office of Town Attorney is now established in the Town of Lewiston.” Motion Seconded by Marra, approved by Winkley, Bax, Palmer and Reiter.

Meeting minutes from January 5, 2015 – Reorganization meeting, read “Winkley MOVED to appoint Mark Davis and Brian Seaman as Town Attorneys, Seconded by Bax. Brochey said neither of the men lives in the Town; therefore they can’t be appointed as Town Attorneys. Winkley replied – there is nothing in Town Law about this.

Seaman said the Board can make a motion to not fill the position of Town Attorney.

At the meeting Bax MOVED to amend his motion to not fill the position of Town Attorney Seconded by Winkley. Approved – Ceretto, Conrad, Bax, Winkley and descending – Brochey.

Glasgow wonders, after hearing sections of State Law, which clearly indicate only resident attorneys living in Lewiston, may be appointed to the Office of Town Attorney by member of the Town Board, who are charged with the execution of State Law. The Board ignored the State Law by not appointing a resident to the Office of Town Attorney.

Further, since the Office of Town Attorney was never abolished, and since Lewiston has many attorneys that are residents, Glasgow wonders why the Board decided to ignore the law, by appointing a Council to the Town, when the law clearly states a resident attorney, an elector, must be appointed to the Office of Town Attorney.

Finally, Glasgow wonders, at the Board meeting of January 5th, the Board was advised to ignore the law by not appointing a resident to the Office of Town Attorney. It would seem, by looking at tonight’s agenda, a Board member does intend to continue to ignore the law. Glasgow is curious what the other three Board members will do.

The correct and legal thing to do is to amend tonight’s agenda, by stating the Lewiston Town Board intends to begin the immediate search for a resident attorney to be appointed to the Office of Town Attorney.

Everything said tonight is in Town Law, which each Board member was given when sworn in. Glasgow hopes all Board members have read the law.

Arnold, John – 5256 Hewitt Parkway – Arnold is beginning to wonder how the Town of Lewiston is equal to the United States government. We have an administration that blames the past administration, and an administration that can’t get along with each other. Sooner or later, we need to forget the past.

Lewiston needs to move on to the issues that exist. The biggest issue Lewiston has is financing. In past meetings it has been suggested looking at other areas for revenue. To date, Arnold has heard nothing. Sooner or later the Board needs to compromise and move on and get this done.

TWO MINUTE STATEMENT – DEPARTMENT HEADS

Highway Superintendent Doug Janese

A State bid has been received for a new F-450 Dump Truck with a plow and box. Two bids have been received, very close in amount. The higher bid came in \$191.00 above the low bid. Janese would like to accept the higher bid. The low bid is from a firm outside of Auburn, NY– about a six-hour round trip. Other is from Rochester, NY – about 45-minutes away. The concern is, going with the low bidder, anytime service or adjustments are needed, it will be a day trip. The convenience factor alone is important. More than the \$191 difference could be spent just once if the truck needs service.

Seaman said with not being a sealed bid process, the Procurement Policy states three written proposals are needed. The Town can deviate from this, if there is a good reason. Seaman suggests this be done in a written resolution stating the reasons for going with the higher proposal. Janese to provide necessary documentation to Seaman to prepare the resolution for the February 9th Work Session.

Janese received a proposal from Moley Magnetics for almost \$1,600, for automated controls for the Muck Pump. These controls will jog the pumps several times a day, during cold weather, to keep them from freezing. No employee will need to go there. Lannon has looked at the proposal briefly. Janese does question if the Board is even interested in doing this. If yes, more prices can be sought. Board members agree this is positive and suggest Janese solicit quotes.

Janese questions where the Riverwalk drainage issue stands. He has been contacted by an individual interested in moving to Lewiston and building a home in the subdivision. They heard there is a standing water problem there and wanted to know what if any progress is being done.

Lannon said a Letter of Intent, to enter into an easement between NYS Parks and the Town is in NYS Parks hands for their advancement. What NYS Parks needs is a survey of the new line, along with the existing storm sewer. Both parties are researching these. Optimistically, the pipe will be ready for installation in the Spring. The Board needs to decide who will install the pipe, the Town or a private contractor.

Janese said as much as the Highway Dept. is willing to install it, it's not a large job, it is up to the Board. It will be quite a cost savings for the Town.

Janese notified the Board of the successful Electronic Recycling drop-off held on January 24th. Quite a bit of hazardous waste was also accepted. There will be a cost to the Town going forward for another event. Janese will work on quotes for this.

Waste Water Pollution Control Center Chief Operator Jeffrey Ritter

Since the Land Conservancy will be taking over the area across the street from Stella Niagara, Ritter has been researching some security avenues for the comfort station. Possibly cameras and locks. If this project comes to fruition and many people come, a restroom might be needed.

Police Chief Christopher Salada

The police department has one of three "Drug Drop-Off" boxes in Niagara County. The office is open from 8 am – 4 pm for residents to bring unused prescription drugs.

AGENDA APPROVAL

Bax requested the addition of extension of moratorium regarding Quasar, and a contractual issue for the Recreation Dept. Brochey requested the addition of personnel.

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

APPROVAL OF MEETING MINUTES

Winkley MOVED to approve: PH / Work Session – 12/8/2014; PH – 12/22/2015; RTBM – 12/22/2014 and Reorganization – 1/5/2015, Seconded by Conrad and Carried 5 – 0.

POST AUDIT PAYMENT

Ceretto MOVED to approve Post Audit payments: County Tax – Sally Hogan - \$42.35; Home Depot - \$719.26; Sam's Club - \$3,063.66; Shelter Point \$90.30; Staples - \$30.41 and Wex Fleet Universal - \$3,556.93, Seconded by Bax and Carried 5 – 0.

OLD BUSINESS

Sewer Credit Policy – Pools. Seaman reviewed the Sewer Use Agreement the Town has with the Town of Porter, Village of Lewiston and Village of Youngstown regarding the waiving of sewer charges. The Agreement reads: "Each municipality may offer to forgive sewer charges for filling a newly constructed and/or erected swimming pool, or for pool liner replacement. Provided a copy of a valid building permit is submitted and/or proof and the municipality verifying the work was completed." Not a patch, broken filter, etc... All three communities follow this.

Seaman has discussed this with Ritter. Ritter is comfortable if the Town were to draw the line at: If replacing the total liner, for damage or whatever reason, that the WWTP is not burdened with water this would be an acceptable scenario.

Edwards questioned the refund being given to pools that are gunite. After discussion it was decided to add language that will address pools constructed with a liner or any material.

Seaman will work on the changes and incorporate them into the 2015 Sewer Use Agreement.

CLERK'S CORRESPONDENCE

Clerk informed the Board a letter has been received; asking to be read at tonight's meeting. Clerk explained the correspondence deadline procedure to the resident, and that it will be read at the February Work Session.

SUPERVISOR BROCHEY

LIAISON REPORT

Update – Finance Office – Finance Director Paul Kloosterman, will be leaving the Town. Brochey and Kloosterman have worked very closely for the last year. The Town is close to breaking even, with a projected balanced budget for 2015. Kloosterman has done a remarkable job in the past year for the Town and Brochey will hate to see him leave. Brochey thanked Kloosterman for all he has done.

Kloosterman said it has been a great experience and has enjoyed working with all.

Bax thanked Kloosterman for all his hard work. His heart and soul was given to the job. Thanked him for uncovering a lot things and bringing them to the Board's attention.

Brochey has started the interview process for a Finance Director. Kloosterman has offered to help to train the new Director.

Salary Clarification – Water Dept. – At the Work Session of 1/12/2015, a vote passed to pay Jeff Dell the rate of \$25.56/hour for Water Maintenance I. He should start at the entry level of \$23.56.

Bax MOVED to correct the prior motion (1/12/2015) to change the hourly rate of Jeff Dell to \$23.56, Seconded by Conrad and Carried 5 – 0.

Appointment to Board of Ethics – A Town employee is to be a member of the Board of Ethics, but no appointment was made at the Reorganization meeting.

Bax MOVED to appoint Linda Johnson to the Board of Ethics, Seconded by Conrad and Carried 5 – 0.

LEGAL

Date of Special Election – Clerk Garfinkel contacted the Niagara County Board of Elections and was informed this type of election does not go through their office. This election will be similar to the proposed Lewiston Civic Center held in July, 2013. The only time restraint Garfinkel is aware of is the applications for Absentee Ballots.

Seaman said sections of Town Law will apply. The Board needs to pass a resolution at least 20-days prior, stating where the election is going to be, what the proposal will be. 10-days prior to the vote it needs to be advertised.

Garfinkel asked for the Boards input on a date of the election, after discussion March or April seems to be the consensus.

Quasar Moratorium

Bax MOVED to extend the Disposal of Sludge, Sewage Sludge and Septage Moratorium (Quasar – equate) an additional 6-months from today, pending the Attorney developing a new Town Law, Seconded by Conrad

Davis is concerned because the Moratorium was done pursuant to a local law, with a public hearing. Davis requests time to research.

Seaman said the Board will be amending a local law, so the text that will be amended needs to be in front of the Town Board before setting a Public Hearing.

Davis will forward the text to the Board to allow the setting of the Public Hearing at the February 9th Work Session.

Edwards said solid waste cannot be hauled in the Town of Lewiston.

Brochey thanked the residents for bringing this issue to the Board's attention.

ENGINEERING

Lannon reviewed his Project Status Report for January. Still waiting to hear back on the schedule for street lights on Legacy Drive/Creek Road; Legacy Drive/Northwood; Oak Run; Big Vista and North Hewitt Drive. These are all in National Grids hands.

There will be a final draft of the Town Standard Specifications by the end of this week. The Subdivision Regulations are under review and a draft should be completed and submitted to the Building Inspector for his review in approximately two weeks.

COUNCILMAN BAX

Garbage can reimbursement – 5929 Kline Road submitted a request for reimbursement for a garbage can damaged by a Town plow. No Board member recalls any such request before. No action taken.

Compensation time pay – Ritter requests 16-hours of compensation pay be paid to Jeff VanUden. It was not included in his last pay period of 2014.

Bax MOVED to pay 16-hours of compensations pay to Jeff VanUden, at the 2014 rate, Seconded by Winkley and Carried 5 – 0.

COUNCILWOMEN CERETTO

LIAISON REPORT

Ceretto is unable to attend Library Board of Trustees meetings. Winkley will be the Liaison.

Soccer request - Dashineau has requested permission to allow Soccer Shots to utilize the parks for their program. The Board approves these requests, insurance is provided and permissions issued. NWAAA has requested the use of Colonial Village Park. A flag football group has requested use of Town parks also.

Dashineau likes to schedule these events at Town Parks with concessions stands, this way the Town receives revenue.

Bax MOVED to authorize Dashineau to engage Soccer Shots of Buffalo with respect to their request of January 14, 2015, Seconded by Winkley and Carried 5 – 0.

Attorneys ask that the Certificate of Insurance be forwarded to them for review.

Sanborn Fire Company is requesting the Board to deny Recreation program at the Fire Hall. Dashineau said a letter was received and believes this is a Contractual issue and should be addressed in executive session. Dashineau said 72 families were registered for the programs at Sanborn and it is not clear if they were consulted.

Ceretto questioned if Sanborn Fire Co. does not want the recreation programs there, is there another location. Dashineau said Lewiston does not own any park land in Sanborn. A program was held Lewiston Fire Co. #2, but attendance started to dwindle as the population aged, and was not feasible.

Deputy Tax Receiver Request – Ceretto met with the Personnel Committee regarding the request and Ceretto asks to discuss this in Executive Session.

COUNCILMAN CONRAD

No items.

COUNCILMAN WINKLEY

Attorney Contracts - Winkley MOVED to abolish the position of Town Attorney, Seconded by Bax and Carried 5 – 0.

Winkley MOVED to authorize the Supervisor to enter into a contract with the Attorney and CRA Engineering, Seconded by Bax

Seaman said CRA Engineering contract is exactly the same as last year, except the schedule. This has been circulated to the Board.

Brochey has one item he would like to address in the Attorney Contract and requests a discussion in Executive Session.

Winkley withdrew his MOTION.

Winkley MOVED to authorize the Supervisor to enter into contract with CRA Engineering, Seconded by Bax and Carried 5 – 0.

Bax MOVED to enter into Executive Session, Seconded by Conrad and Carried 5 – 0. (7:11 pm)

PRESENT: Supervisor Brochey; Councilmembers Bax, Ceretto, Conrad, and Winkley; Deputy Supervisor Edwards; Town Attorneys Davis and Seaman; Finance Officer Kloosterman; Michael Dashineau and Clerk Donna Garfinkel

Discussion on matters concerning employment of a particular individual. Consultation with Attorneys regarding Contract terms and Contractual interpretations.

Bax MOVED to exit Executive Session, Seconded by Conrad and Carried 5 – 0.

Winkley MOVED to award Darlene Norwich – Deputy Tax Receiver, a stipend of \$4,000 for the year of 2015 as compensation for additional duties as Receiver of Taxes and Assessments, to be paid from the Receiver of Taxes and Assessment budget line, Seconded by Ceretto and Carried 5 – 0.

Winkley MOVED to approve a contract with Paul Kloosterman, as independent contractor, to provide consulting to new Finance Director at rate of \$28.84/hour, at a maximum of \$2,500, Seconded by Conrad and Carried 5 – 0.

Winkley MOVED to authorize the Supervisor to enter into a contract with the Attorneys of the Town of Lewiston, Seconded by Bax and Carried 5 – 0.

Winkley MOVED to adjourn the meeting, Seconded by Bax and Carried 5 – 0. (8:30 pm)

Respectfully Submitted and Transcribed by,

Donna R. Garfinkel Town Clerk