

PRESENT: Supervisor Broderick; Councilmembers Bax, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorney Seaman; Highway Superintendent Trane; Building Inspector Masters; Water Foreman Townsend; Police Chief Previte; 1 Press; 11 Residents and Clerk Donna Garfinkel

EXCUSED: Councilwoman Ceretto

The Supervisor opened the meeting with the Pledge to the flag followed by a moment of silent reflection.

Police Chief Previte – Department Awards

Previte thanked the Town Board for allowing him to make these special acknowledgements tonight.

The Lewiston Police Department recently honored some of our wonderful residents and partner agencies with department citations for their outstanding efforts. Jeffery Frazier and Trooper Keith Lucas received the Life Saving Award Citation for their role in saving the life of retired trooper Rick Flores and the Niagara County District Attorney's Office and New York State Police Investigative Unit was honored for their fantastic work in the Iver Phallen investigation and prosecution.

AGENDA APPROVAL

Additional Agenda Items: Geiben – Cable Commission and Kayak project.

Bax MOVED to approve the Agenda as amended, Seconded by Geiben and Carried 4 – 0.

RESIDENT STATEMENTS

Warren, Rosemary – Griffin Street – Christmas at the Farm in Sanborn was held two weekends ago. Warren and 6 others made 1,000 cut-out cookies, in five hours; if Broderick was there to help they would still be there today.

Warren has attended many Host Committee Greenway meetings. Residents are welcome to speak. Warren asked who policed the greenway project money, asked if an account is spent, and money is left, where does it go? Warren contacted the NYS Comptroller to ask who polices these dollars.

Warren wonders how you can do one side of the Niagara River, have enough projects to keep you going on Greenway money, and where did it come from. Is it from the residents paying too much for the rate, and are now giving it back in bits and pieces. The Greenway is a very interesting thing.

Broderick noted he represents the Town on the Host Communities Greenway, and has since been appointed to the Greenway Commission.

Glasgow – Paulette – The Circle – On November 29th the Town hired 50 seasonal employees, at what was deemed a budgeted rate. Since residents don't know what the budget rate was and how much per-hour, can the Board tell her. With relationship to this, 30-days ago Glasgow submitted a FOIL, requesting the names of these employees. A response letter was received from the Clerk that whole or in-part; these names will be available on December 9th. As of today, the 29th, Glasgow was informed again more time is needed.

They have been employees for 30-days, gone through two pay cycles. The Board knows who they are, why can't the public know who they are. How much more time is needed to fulfill the FOIL? Glasgow would like to have the FOIL fulfilled. As of today, it is in violation of the open meetings law.

On January 9th the Board will designate an official newspaper for the Town. For the last six-months the Niagara Gazette has not attended the meetings. Glasgow knows why, not because the reports don't want to be here, but because the two gentlemen in charge will not let them be here. Glasgow would like and hope that on January 9th, the Board reviews Town Law, Section 64, Subsection 11, Article 4, which says "designate the official newspaper that is regularly published". The only paper

that has come to the meeting and is regularly published is the Sentinel. Therefore, according to the law they qualify as an official newspaper and should be designated as such.

Tonight the Board will be encumbering public money, and the public doesn't know what you're encumbering. This list should be made public.

Glasgow addressed Supervisor Broderick: next month Broderick will be thinking about designating the Citizen of the Year. As a former Citizen of the Year, Glasgow asks Broderick to not consider a politician or a Village of Lewiston resident. There are so many people in the Town of Lewiston who have contributed to this community and one of them sits here tonight, Mrs. Rose Mary Warren.

DEPARTMENT HEAD STATEMENTS

Seaman asked to address the Town newspaper comment. If looking at the definition section of the law, it has to be a daily newspaper. When it is stated "the official newspaper", that is where the Town puts the required Legal Notices, which has to be a daily paper. The Sentinel has been designated in the past.

Geiben asked if the Niagara Gazette disqualified itself when it stopped publishing on Tuesday. Seaman said that is an interesting point. Seaman will check into this for the next meeting.

Broderick does agree with Glasgow on the need for the reporters to be at meetings.

Dashineau asked to address the FOIL comment. Dashineau said the hold-up on the FOIL is due to most of the employees being under the age of 16. It needed to be researched regarding their violation of privacy.

The seasonal help is at \$9.00/hour, going to \$9.70/hour on January 1st, if they are a new employee. The returning employees are at \$9.25/hour, going to \$10.00/hour. There are 38 employees. The average weekly hours one will work is 7 – 8 hours. That is why there are 38, this allows for more kids to get work experience.

Bax asked Dashineau how much more time is needed for the FOIL. Dashineau said in regards to a FOIL, a document does not have to be created to answer, so he is working on what can be distributed.

Clerk Garfinkel – Request Barbara Joseph be allowed to carry over two (2) Personal Days; Carole N. Schroeder - two (2) Personal Days. They will be used within the first quarter of 2017.

Geiben said Schroeder is exempt due to being part of the bargaining unit. Garfinkel said they are both part of the bargaining unit.

Broderick said the policy manual allows one personal day to be approved. Seaman said he reviewed it, but will need to take a closer look at what is allowed under the handbook and follow those procedures.

Broderick suggests either tabling it and discussing, or approving the one day for each of them.

Bax MOVED to approve one day of Personal Day – per the handbook, Seconded by Geiben for discussion.

Geiben is in conflict mode, talking about the slippery slope issue, but historically the second day has been granted due to extenuating circumstances. The policy needs to be refined to give the department heads some latitude.

Carried 4 – 0.

Garfinkel notified the Board that the Pitney Bowes stamp machine will be obsolete. The budget dollars for 2017 will not cover the cost of a new machine. The contract expires at the end of March.

Conrad said the rink is great and found all employees to be professional.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve the following minutes: Public Hearing – 2017 Preliminary Budget – 11/9/2016; Public Hearing - Sludge Moratorium / Work Session – 11/14/2016; RTBM – 11/28/2016; Work Session – 12/12/2016, Seconded by Morreale and Carried 4 – 0.

AUDIT PAYMENT

Geiben MOVED to approve the abstract of claims in the amount of \$121,975.73, plus a Post Audit payment of \$12,135.33, Seconded by Bax and Carried 4 – 0.

FINAL AUDIT

Blazick forwarded the Board budget revisions via-email. There are 16 batches.

Geiben MOVED to approval as printed on the stapled documents and the two singular hand-outs, Seconded by Bax

The Clerk requested the Board read the date and time off the top of the papers the Board is approving. The minutes need to reflect what the Board is approving, what actual documents are being approved.

Bax read the following: Six (6) documents read 12/28/2016 at 7:03 pm; 12/29/16 at 11:11 am, 11:50 am, 12:44 pm, 1:04 pm, 1:28 pm; Police Equipment & Police Contractual; Recreational Seasonal & Ice Rink Contract.

Carried 4 – 0.

The Town received the agreement between the Town and the Town of Cambria, regarding the Sanbornites Senior Citizens for budget dollars.

Geiben MOVED to approve the Town of Cambria agreement for services and authorize the Supervisor to sign, Seconded by Bax and Carried 4 – 0.

The Town received the Annual Engagement letters from Drescher & Malecki, LLP. This is per the 5-year agreement the Town has. Each year they outline and send an engagement letter.

Bax MOVED to authorize the Supervisor to sign the Engagement Letter from Drescher & Malecki LLP, Seconded by Morreale and Carried 4 – 0.

Blazick does not believe the fund balance has been appropriated for the Fire Department. The Board increased the Fire Contract for 2016 for \$8,000; these monies need to be appropriated to cover this cost.

Geiben MOVED to appropriate the fund balance in the amount of \$8,000 to cover the Fire Contacts for 2016, Seconded by Bax and Carried 4 – 0.

OLD BUSINESS

Commission / Committee / Board Appointment – Town advertised for applicants to apply.

Bereavement Leave Policy – This is being addressed by union negotiations.

Broderick MOVED to remove Bereavement Leave Policy from Old Business, Seconded by Bax and Carried 4 – 0

Street Light – Scovell and Lauren Court – No response received; Street Light Request – Model City Road – No response received. Morreale to contact the Lighting Committee Chairman.

Williams – Soil Removal – Broderick meet with Eric Wizner, representative for Mr. Williams and spoke to Seaman and there is no change.

Wizner and Williams would like to get this done. Wizner said maybe the word “selling” was not the best word to use. After research with the DEC, it is the right of the property owner to do this. Williams has said if another no answer is given, he is prepared to obtain a lawyer and see which way it goes.

Bax believes it is a mountainous pile of soil. Wizner said no, it is about 50 – 60 loads. It has been there since 1987 and is mostly trees. The trees will be removed and then dig the stumps out with the dirt. They can be placed in the pond or not. If Williams does not remove the soil, the land will be leveled out and a bee yard will be placed there.

Bax asked Wizner, “being able to remove the soil will be a benefit to you but it doesn’t necessarily preclude you from putting the bees there?” Wizner said it would give a flat area for the hives.

Seaman said the Town Code is pretty clear; you can’t mine or remove topsoil unless you are in a mine-overlay district. There is a procedure to follow to get a parcel rezoned into the mine-overlay district, and it is not just coming to the Town Board and asking.

Wizner showed a 1987 permit from the DEC that says it supersedes all Town Codes. This has been presented to the Town before. If the Town is saying the Town Code supersedes the DEC, then that is what Williams will take and move forward.

Broderick will work with Masters and Seaman and get the Codes to Mr. Williams. Broderick will give Williams a written response.

Wizner informed the Board that in 1989 a company on Grand Island was told they could not remove their minerals (dirt), so they got a lawyer, and in 1992 Grand Island was sued for \$6.5 million.

Mobilitie. LLC – Permit Application (tower) Seaman believes this was just information for the Town. An application needs to be submitted.

Transfer Request – Town Clerk – This was addressed during the Financial Final Audit adjustments.

Removal of soil – French Landing – This was put on the agenda by mistake, it is not an issue.

The Retainer Agreement for Perlman has been addressed.

NEW BUSINESS

Montagna – Elm Drive - requested money be refunded for sewer charges and a water meter payment. Broderick will follow up with Norwich, Clerk in the Water Dept. and call resident.

SUPERVISOR BRODERICK

Liaison Report

Carry-Over – Justice Court employees – Judge Gee requested Marie Sicurella carry over 4.5 days of unused vacation time and Patty Yacus carry over 15 days of unused vacation time. This was tabled with the other requests.

Clerk questioned the request from the Parks Dept. for one Personal and one floating for Jeffrey Lester. Broderick said the Board tabled all requests except for those individuals receiving one Personal Day carry over. No vacation days or holidays to be carried over.

Broderick announced tonight is the last night for Brian Seaman as the Attorney for the Town. Seaman has taken a position with the Town of Lockport, and it does not enable him to continue

with the Town of Lewiston. Broderick has been working with Seaman regarding a replacement and this will be finalized at the January 9, 2017 Reorganization meeting.

Margery Maggard said Seaman has been so vocal and so good in answering and keeping the Town up to speed.

Engineering – Nothing to report

Finance – All has been discussed

COUNCILMAN BAX – Nothing to report

COUNCILWOMAN CERETTO - Excused

COUNCILMAN GEIBEN

Liaison Report – Cable Commission - Geiben believed James Abbondanza, Chairman of Cable Commission was to attend. Geiben believes the Memorandum of Understanding is moving along. The Commission will meet to discuss the purchase of equipment and how to utilize it. There is a potential time slot at the Lockport Cable station. Things can be put on the web-site.

The Commission will have a meeting on January 12, 2017 at 7:00 pm.

The Board has been talking about the Kayak project for quite some time. The Town needs to have a plan on what direction to go in so 2017 doesn't just pass without movement on this project.

Geiben would like to contact NYS Parks in regards to Joe Davis Park for a possible kayak slip, and ask if they have any plans to develop the park. Since it is located in the Town, maybe the Board could encourage them to do something. There is a lot of property there, and it is not on the tax roll. Broderick agrees.

Dashineau has spoken to the NYS Parks and they have no formal plan for expansion or development of Joe Davis Park. A portion of the pool was removed due to the concrete raising to an unsafe level.

COUNCILMAN MORREALE

Liaison Report – Re-Zoning request – Lombardi – Ridge Road.

Morreale said this needs to be tabled and asked Seaman to elaborate on the reasoning.

Seaman said the re-zoning, is an amendment to the Town Zoning Map, which was enacted by Local Law. So this needs to be enacted by a Local Law. The Planning Board has given their approval, but the law needs to be done. A Local Law needs to be drafted, introduced, and a Public Hearing held before the Town can rezone a parcel.

Seaman said he will get a draft ready for the next meeting.

Dashineau submitted a letter requesting the Town Board accept the following sponsorships as revenue accrued from the Lewiston Ice Rink: Coppins Service Center Inc.- \$500; Apple Granny-\$1,000; Law Office of George S. Adamson-\$500; Warrens Village Hardware-\$100; Havens Family Dentistry-\$500; Hazman-\$500; Realty USA-\$200; Nussbaum & Clarke, Inc.-\$1,000; Women's Medicine of Niagara-\$500; Lower Niagara River Region Chamber of Commerce-\$200; CRA Infrastructure & Engineering, Inc.-\$1,000; Fichte, Endl & Elmer Eye care-\$1,000; Key Bank-\$500; Kiwanis Club of Lewiston, Inc.-\$500; Viola, Cummings & Lindsay LLP-\$250; Solando Corporation-\$200; Greater Niagara Building Center, Inc.-\$500; Deal Realty, Inc. \$1,000; Bruce & Jacqueline Sutherland-\$100; William & Rita Geiben-\$100; Jeffrey & Marla Williams-\$2,500; Lewiston Village Pediatrics-TBD; Tedesco Construction Services-\$500; Village of Lewiston-\$5,000; Favorites Pizza-TBD.

Bax MOVED to accept the gifts from Sutherland, Geiben and Williams totaling \$2,700.00 towards the operations to the Ice Rink for 2016, Seconded by Morreale and Carried 4 – 0.

Geiben MOVED to accept the sponsorship contributions and gifts towards the operations to the Ice Rink for 2016, Seconded by Bax and Carried 4 – 0.

Dashineau submitted a letter to the Town Board, containing a financial plan for the remainder of 2016–2017, and is requesting a closing date based on this financial information.

Dashineau stated prior to today, the rink has not spent any money received as operating revenue or sponsorships. The rink was constructed along with the salaries incorporated in to that, just using the Parks & Recreation Budget. Blazick said the revenue raised from the rink was used.

Blazick said that due to staff being in the wrong account, the greenway money used for the ice rink in 2015-2016 year are totally consumed. There is an additional expense of \$3,000, which the Town may go back to Greenway to see if they will advance the 2016-2017 fund year funds.

For the 2016 portion, of the 2016-2017 year, the Town has funded this through the daily raised revenue and through the Seasonal and Contractual line of the Recreation Dept. budget. Donations and sponsorships accepted today should go into the H-49 Fund to be used for the cost of the 2017 portion of the 2016-2017 year.

Geiben asked what has the closing date been for the last couple of years. Dashineau said this year would be January 23rd, that would be the normal 60-day closing time.

Broderick said the \$3 charge, season pass or family pass has not affected attendance. Weather permitting the rink has been a huge success.

Dashineau would like to go to January 22nd. With the amount of sponsors received in a small amount of time is positive. Whether it is closed on the 9th or the 24th, there is still going to be some outstanding balances that need to be paid.

Morreale asked if the surrounding ice rinks affect Lewiston's. Dashineau said they are not the same.

Dashineau said there is a huge commitment from the community with the large amount of sponsorship.

Geiben MOVED to have the Ice Rink closed on January 22, 2017, Seconded by Bax and Carried 4 – 0.

The rink will celebrate New Year's Eve starting at 6, with a ball drop (balloons) at 8.

Geiben asked to be excused.

RESIDENTS STATEMENTS

Correa, Nancy – Riverwalk Drive – Correa updated the Board on the decision regarding the Ethics Policy. The Executive Committee of the Lewiston Taxpayers Accountability & Action Alliance agrees to meet with the Town Board. The Committee would like to help the Board to move forward and resolve any issues the Board may have.

Bax reached out to Mr. Lyle who was to forward Bax's contact information to the Committee. Bax has not heard anything, but is available. Morreale will also attend.

In regards to the Niagara Gazette, there may be other options, with a circulation appropriate for the size of the Town, in addition to the Sentinel.

Correa suggests a letter be sent to the Niagara Gazette publisher requesting an explanation as to why the Town should continue to use them as the official newspaper.

Terry Duffy, reporter for the Sentinel told the Board the Sentinel is recognized as the official newspaper in the Town of Grand Island, Town of Niagara and the Town of Wheatfield.

Warren, Rosemary – Griffin Street – Warren is not against the ice rink, but if the Town begins to use the power allocation for the utilities, she is against that.

Warren spoke regarding the Neptune Ski Club.

Glasgow, Paulette – The Circle – Glasgow submitted a FOIL for the MOU for the Cable Commission and understands this will now be fulfilled. Garfinkel said she does not have it. Glasgow spoke to Rob Freeman regarding transparency and information given to residents. Glasgow submitted a FOIL requesting the names and salaries of the employees hired for the ice rink. Glasgow has the understanding that she cannot be given them because they are minors. She asked Freeman - “Can we release names of minors in youth programs”.

Freeman forwarded an opinion: There is no special consideration for minors, in Personal, Privacy Projection Law or Freedom of Information Law, just as there are no special considerations for senior citizens. The only stipulation is in regards to income, so the names are not private.

Broderick asked Glasgow to give a copy to Dashineau.

As a member of the Executive Committee of the Lewiston Taxpayer’s Accountability and Action Alliance group, Glasgow distributed a letter to the Board in regards to the transparency and lack of it for the last year.

Glasgow read the letter:

For the past year the Lewiston Taxpayer’s Accountability and Action Alliance has requested that all information discussed or acted on at all public meetings of the Town be made available to the public prior to or at all public meetings.

On February 12, 2012 the New York State Legislature approved legislation stipulating that all information subject to discussion by a public body during an open meeting is to be made available either before, online prior to the meeting. Earlier this year the Lewiston Town Board passed a resolution stating that “prior to public meetings the Town Clerk was to be given all information to be discussed at Lewiston public meeting. This information according to the above mentioned state legislation is to be posted on a municipality’s website, should they have one, prior to all public meetings. Further, according to the resolution approved by the Town all publicly accessible information should not only include agendas and minutes but local laws, rules, policies, amendments, contracts and agreements, this information should be posted on the Town’s website prior to every public meeting. Other than the Town clerk’s office, the Building Inspectors office, the planning and zoning board all other town department, boards, committees, commission and the town board have failed to follow this approved policy.

Through 2016, at many Lewiston public meetings, the names of individuals hired by the town were withheld from the public along with their rate of pay; public money was spent without the public given the reason for the spending, contracts and agreements approved without the public extended the courtesy of review prior to approval. This practice is not only a violation of the state legislation and town policy but demonstrates a blatant disregard for openness and transparency.

Once again the Lewiston Taxpayer’s Accountability and Action Alliance is asking the Lewiston Town Board to not only follow a policy it approved but is a State approved law with regard to making all information accessible to the public prior to every public meeting of the Town.

Further there seems to be a misimpression that minutes of the Town Board must first be approved before they are made accessible to the public. At the December 12th Town Board work session a member of the town board replied to a citizens inquiry as to why minutes

where not being posted on the towns website. The councilman replied that “minutes had to be approved before they were placed on the town’s website”. In a 45 minute conversation the Lewiston Taxpayer’s Accountability and Action Alliance had with Robert Freeman, the executive director of the committee on open government, Mr. Freeman informed the Alliance that nowhere in New York State open meeting law does it state minutes must first be approved before they are made publicly accessible. In fact, Mr. Freeman quoted the following as proof, “minutes of meetings of all public bodies shall be available to the public in accordance with the provisions of the Freedom of Information Law within 2 weeks from the date of such meeting and within 1 week from the date of an executive session”. Mr. Freeman concluded by stating that nowhere within Open Meeting Law is there a stipulation that minutes must first be approved before the public is given access to them.

As 2017 begins, the Lewiston Taxpayer’s Accountability and Action Alliance would hope the Lewiston Town Board, its department heads and; its board, committees and commission would follow the law by making all information available to the public prior to every public meeting.

Bax MOVED to adjourn, Seconded by Morreale and Carried 4 – 0.

Transcribed and respectfully submitted by:

Donna R. Garfinkel
Town Clerk