

PRESENT: Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Town Attorneys Seaman & Catalano; Engineer Lannon; Building Inspector Masters, WWTP Chief Opt. Ritter; Water Foreman Townsend; Police Chief Previte; 1 Press; 16 Residents and Clerk Donna Garfinkel

The Supervisor opened the Public Hearing followed by the Pledge of Allegiance and a moment of silent reflection.

Clerk read notice into record.

ORDER CONCERNING DRAINAGE DISTRICT PETITION

WHEREAS, Jerald I. Wolfgang has filed with the Town a petition requesting that the Town create a Drainage District comprising the property commonly known as the French Landing Subdivision, the contents of said petition disclose that:

1) The boundaries of the proposed Drainage District are as follows: In the Town of Lewiston, County of Niagara, the parcel described on the Niagara County Land and Tax Map as Section, Block, and Lot number 73.18-1-19, and as more particularly described in the Map, Plan and Report filed along with the petition.

2) That the proposed Drainage District consists of drainage facilities including retention ponds, retention areas, drains, etc. as more particularly disclosed in the Map, Plan & Report filed along with the Petition.

3) That the maximum amount to be expended by the Town for the construction of said improvements is XERO DOLLARS.

4) That the maximum estimated annual cost of maintenance and upkeep of said improvement to the typical property within the proposed Drainage District is \$12,850.00, and the maximum estimated annual cost of maintenance and upkeep of said improvements to the typical one or two family home within the proposed Drainage District is \$475.93.

NOW THEREFORE, be it resolved as follows:

- 1) That a public hearing be held on Monday, June 27, 2016 at Town Hall, 1375 Ridge Road, Lewiston, New York, at 6:00 P.M. concerning the petition and creation of the proposed Drainage District, at which time all interested parties who wish to be heard will be heard.
- 2) That the Town Clerk cause a copy of this order to be published in the Town's official paper at least 10 days but not more than 20 days prior to said hearing and also cause a copy of this order to be posted on the Town's signboard.

By order of the Town Board / June 13, 2016

Geiben suggested Seaman and Lannon give background and clarification remarks on the need for this type of drainage district, why there is a cost to it and why it does not fall back as a responsibility of the Town.

Seaman summarized: A drainage district is a special taxing entity. It will tax only a portion of the Town. This district is just for drainage, the ponds, piping and storm water drainage.

In this case, the landowner, whom owns 100% of the land that is part of this taxing district, has made a petition to the Town. Anyone can make such a petition, there would need to be at least 50% of the ownership petitioning.

If the Town were to create this district, it would be a taxing district that would have the ability to level a tax on those who own property within the boundaries. This would affect the owners now and any future owners.

The Town Board, each year at budget time, would make a determination of the cost. The amount would be divided by the number of parcels in the district and put on the tax bill. It would only be able to be used to maintain the drainage facility in this area. This makes residents that own property within the district pay for whatever maintenance and improvements are required in the future.

Lannon said the reason / cause for the creation of the special district is that French Landing is the first full-blow subdivision that has occurred since the promulgation of DEC's Green Water Infrastructure rule. This will have a bio-detention area, storm water pond and special features that serve this drainage area. There is more than a series of catch basins and underground piping that discharge to a local waterline.

The dollars that are portrayed in the Map, Plan & Report are considered to be maximum; Lannon believes this can be done for much less.

The Supervisor invited residents to speak.

Glasgow, Paulette – The Circle – Glasgow thanked the Board for holding the Public Hearing.

The purpose of the meeting is to hear the comments of the residents and Glasgow hopes the Board listens, and delay any decision, not only to hear what residents say, but to answer their questions as well.

Glasgow has four (4) questions regarding present and future financing of this district: 1) Has any public money been spent in preparing to create the French Landing Drainage District. If so, for what and to whom? 2) Will any future public money be spent in maintaining the French Landing Drainage district? If so, to whom? 3) What are the long range financial implications if the French Landing drainage district needs additional improvements other than drainage, such as sidewalks, lighting ... will taxpayers have to pay for that? 4) Will public money be spent to pay for those future improvements and maintenance?

Glasgow thanked the Board and looks forward to the Board's response.

Correa, Ellen – Riverwalk Drive – The Lewiston Taxpayers Accountability and Action Alliance urges that the Town Board assure that private housing development impose the least possible cost to taxpayers who live outside the new developments.

Although the proposed drainage district would require only French Landing homeowners to pay an extra tax to maintain the new retaining pond and surrounding drainage area, there's no doubt that the Town would incur costs to set up and maintain the infrastructure necessary for the special district.

Also, since the Town would be responsible for the drainage district, we may also be liable if anyone is hurt or drowned in the large retaining pond.

Requiring the creation of a Homeowner's Association, instead of a tax district, would relieve taxpayers from bearing the burden imposed by a special district, and allow French Landing homeowners to control the maintenance of their own property.

Please vote no on the proposed French Landing Special Drainage Tax District.

Geiben MOVED to close the Public Hearing, Seconded by Bax and Carried 5 – 0. (6:11 pm)

Seaman asked if he could address resident's comments.

In regards to any public monies being spent on this by the public; it is believed Lannon inspected various facilities as part of the PIP process. The developer is required to pay this, to cover Lannon's fees. Any legal work done has been part of the regular duties of the Attorney.

In regards to sidewalks, lightings etc...; this comes down to the dedication of the road. Once the roadway/highway is accepted by the Town, like every other roadway, the Town will plow; install lights (as required by Town Code).

It was considered at one point by the developer to put in special/different lighting. He was told a Special Lighting District or Homeowners Association (HOA) would need to be established.

With an HOA, for the first 5, 6, 7 years, the only thing they're doing is managing the storm water drainage system, and see no expense year after year after year. There is a tendency for these types of HOAs to become inactive, and not have the funds when needed. The Town on the other hand would have collected the tax and put it in a reserve fund.

The Supervisor said the Town is entering territory that has never been entered before and this is the first of many to come.

In regards to the question, "will public money be expended", Seaman said since this money will be collected as a tax, the Special District itself will be a public entity, it will become public money, but public money that is collected only from the homeowners who live in the district.

Come budget time, the Board can allocate a portion of an employee's salary to different districts.

Seaman agrees with Geiben's statement that the Town Board sets the rate, per its judgment, and can adjust per its judgment.

Broderick asked Seaman to discuss the litigation question regarding the pond. Seaman said if the Town is involved and is negligent, there is always a possibility someone could put a suit against the Town. The Town would not own the property (pond). At the time of the street dedication there will be easements that will be conveyed to the Town by the property owners. This will allow the Town to do work that needs to be done.

Morreale questioned the division of the cost. What if only seven houses are built, where do the additional dollars come from? Seaman said it would be split amongst whatever properties there are. If the district remains vacant for the next 5 years, the entire amount would go on the tax bill of the single property owner. As homes are built it would be split.

DeCasto just notified Seaman that there has already been some separation in SBL#'s / lots.

Broderick said the Town's goal is that the Town spends no money what-so-ever. With Riverwalk, it's a different issue. This is a 12-year issue which this Board inherited and wants to resolve.

With this, it is at the beginning stages, and the goal is zero money.

End of discussion (6:20 pm)

Transcribed and Respectfully Submitted by:

Donna R. Garfinkel
Town Clerk