

October 13, 2016

Public Hearing re: Increase and Improvement of Facilities of the Lewiston Water Improvement Area

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, W. Geiben & R. Morreale; Police Captain J. Penzotti; Eng. B. Lannon; Attorneys B. Seaman & J. Catalano; Finance Director/Budget Officer M. Blazick; Bldg. Insp. T. Masters; WPCC Ch. Op. J. Ritter; Water Foreman M. Townsend; 1 Press; 11 Residents and Dep. Clerk C. Schroeder

Excused: Dep. Sup. Conrad

The Supervisor called the Public Hearing/Work Session to order followed by the Pledge of Allegiance.

The Clerk read the notice into the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston, on Thursday, October 13, 2016, at Town Hall, 1375 Ridge Road, Lewiston, New York at 6:00 P.M. concerning a proposed increase and improvement to the facilities of the Lewiston Water Improvement Area (the "Project"). The project includes the replacement of approximately 43,800 LF of existing water line located within the Town of Lewiston along the following roads: Lower River Rd., Morgan Dr., Mayflower Rd., Sweet Home Rd., Hermitage Rd., Creek Rd., Hoover Rd., Lewiston Rd., Military Rd., Homestead Pl., Pletcher Rd., and Country Club Trail, including all related, incidental and ancillary improvements, equipment, machinery, apparatus, costs and expenses in connection therewith. The total estimated cost of the Project is approximately \$10,200,000.00. A Map and Plan more particularly describing the Project has been prepared by CRA Infrastructure & Engineering, Inc. and is on file with the Town Clerk where it can be reviewed by the public during regular business hours. At the public hearing all interested parties who wish to be heard will be heard.

By Order of the Town Board  
September 12, 2016

The Supervisor asked for public comment. There being none he asked for a motion to close the hearing.

**Geiben MOVED to close the Public Hearing. Seconded by Bax and carried 5-0.**

The Supervisor called the Work Session to order.

Eng. Lannon proceeded with a presentation on what the Water Project consists of. He provided a map detailing the areas being affected.

Morreale asked why Country Club Trail was included. What is wrong there, he asked? Water Foreman Townsend said they want to abandon the 16-in waterline that broke last year. This will not impact any new develop in the cul-de-sac.

Townsend said there will be a need for waterline replacements in the future. But the ones outlined in the Map and Plan are the most important at this time.

Morreale asked about engineering fees. Lannon said once they come up with the detailed construction cost estimate, they will apply a 15% figure to cover engineering, legal, bond counsel, administrative, etc. Lannon said there would be an engineer on-site daily, as required by the New York State Health Department. Once the main is put in, then they would connect the services to each home. Lannon said there would be no impact on the homeowner. The actual connection is pretty quick.

*AGENDA:*

Additions: Broderick: NIMAC Presentation; Sanborn Business Association Liaison; Attorney Contract for Lewiston Water Main Capital Project

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

*NIAGARA MILITARY AFFAIRS COUNCIL:*

Bill Wagner provided a 15-minute presentation with regard to the Niagara Falls Air Reserve Station. He thanked the Town for its continued support of the Air Base. Lewiston has a strong support of the military, both past and present.

Wagner spoke about the two units at the base. The 914<sup>th</sup> and 107<sup>th</sup> (Air National Guard). Both units right now are in good shape and we are really excited about the future of the base, he said.

Wagner then spoke about the economic impact specific to Lewiston. There are 54 NFARS (Niagara Falls Air Reserve Station) members working at the base. This does not include the army, military entrance processing center or civilians. If you add the 14305 zip code, that adds another 36 members. You're talking about 90 families directly impacted within the general vicinity of the Town of Lewiston. It's important to note that these numbers include businesses that contract to work there.

The general consensus is that on an overall annual economic impact there is about \$168,000,000 that the base generates for Western New York. The base has about an \$88,000,000 annual payroll. There are about 3,000 people employed there.

The Sales Tax revenue generated by Niagara County is shared by local municipalities. If the base was to disappear and potentially the airport, I can't imagine the massive negative impact this area would realize, Wagner said. Keeping the base open is paramount to Niagara County and WNY regionally.

Again, Wagner thanked the Board for its support of the base and hoped the support would continue into the future.

The Finance Director asked what the focus of NIMAC is and what it does to keep the base here. Wagner said the Niagara Military Affairs Council is a voluntary board. There is only one paid staff member that is the administrative assistant. The money it receives from the community is spent to allow NIMAC to go to Albany and Washington to speak with its representatives to make sure they understand the benefits and assets the Niagara Air Base has and to speak to them to allow the base to maintain the missions it has and to potentially find new missions to allow each one of the air wings to grow. We are the primary advocate for the air base.

*INCREASE AND IMPROVEMENTS OF FACILITIES OF THE LWIA*

Attorney Seaman briefly addressed, from a legal standpoint, what needs to be done. When Eng. Lannon put together the Map and Plan, it started the process for the Town. Seaman said he then started to gather some documents and do some research on what is needed in order to properly carry out this process. Seaman said the Town has two options as to how it can proceed. The first would be something that would spread the cost throughout the Town. That is what the LWIA has been in the past. There are two ways to do this: One would be a special district; and the other would be an overlay of the LWIA. They both have some advantage and disadvantages. In either scenario, the Town would likely have to make an application to the Comptroller's office for approval because of the amount of money that is going to have to be bonded and how that stacks up against the assessed value of the properties in Lewiston.

In the near future, Seaman said he would be coming back to the Board with some more detailed analysis of each of these two options for the Board to choose. There is more to be done. We are not at a point where the Town Board would take a vote. We have to do quite a bit of other things first. I want everyone to be aware of that.

With that said, Seaman said he prepared a contract between the Town of Lewiston and Seaman Norris LLP to perform legal services necessary for carrying out the capital project involving the replacement and/or rehabilitation of water main lines within the

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Town as described in a Map and Plan produced by CRA Engineering, Inc., dated August 2016. The term of the contract shall commence upon execution and shall terminate upon final completion of the project.

**Geiben MOVED to approve the Agreement between the Town of Lewiston and Seaman Norris LLP for the Lewiston Water Main Capital Project and directed the Supervisor to sign the Agreement. Seconded by Bax, for discussion.**

The Finance Director asked for clarification regarding the funds for the Agreement. Blazick asked if the funds would be part of the proceeds of the bond. She was told they would be. Seaman said the funds would all be part of the capital project. It would not have any affect on the Town's budget. It is included in the cost estimates that the Engineer has put together. It is not additional.

**Motion carried 5-0.**

*ABSTRACT:*

**Morreale MOVED to approve the Regular Abstract of Claims Numbered 3010 to 3172 and recommended payment in the amount of \$315,263.90, plus a post audit of \$106,603.06. Seconded by Geiben and carried 5-0.**

*DEPARTMENT HEAD CONCERNS:*

Town Clerk: The Deputy Clerk read the following letter on behalf of the Town Clerk regarding a 2008 Ford Crown Victoria, VIN# 2FHP71V48X176666. The driver must disconnect and reconnect the battery cables at each use. Steering shakes uncontrollably and once parked black smoke comes from the tire on the driver's side. Most of the electronics on the dashboard do not work; for example, odometer and gas gauge. I request the Town Board declare the vehicle obsolete and excess equipment and approve placing the 2008 Ford on Auctions International for the bidding process to sell the auto, in as-is condition.

**Bax MOVED for approval. Seconded by Geiben and carried 5-0.**

Building Inspector: Masters said he's been working with Mrs. Jacquie Lodico on her quest for a stairlift. "I'm pleased to announce she got her State variance two days ago. They will be in the process of installing it. That was good news for them."

Geiben thanked Masters and Code Enforcement Officer Chris McAuliffe for their assistance on the application to the State.

Masters said in the last few months they have been involved with the State Variance Committee with regard to Riverwalk lots. He has refused to issue permits for Phase 2C until the fire access road is in. The applicant applied to overrule his decision. Master said he went before the hearing but the applicant pulled the variance and the fire access road is going in. That whole process was averted but he spent a lot of time and effort before the applicant pulled the variance.

With regard to the Water Main Capital Project, Masters asked how they would spread the bill out. Would it be on assessed valuation or water usage or equally parceled out to the people who have water bills in the Town.

Seaman said this has to do with the two matters he just talked about. If they went forward with an Overlay Water Improvement Area, the Town would likely declare the area to be the entire Town outside the Village. The cost would be spread out ad-valorum across the entire Town. The other option would create a Town-wide special district.

Engineer: Lannon presented the Board with two pages of construction notes for Riverwalk Phase 4A. One page says “existing” and the other “proposed”. Both of the sheets are excerpted from the construction drawings for Riverwalk, he said. Lannon said there are highlighted notes he wanted to clarify with the Board.

Note 16 on the existing page reads: Contractor to provide minimum 6” drop between finished grade at house foundation and finished grade at 10 feet away from house foundation. The developer’s engineer has proposed to slightly modify that to take the responsibility off the contractor and make that to read “*Home construction contractor to provide minimum 6” drop between finished grade at house foundation and finished grade at 10 feet away from house foundation.*” Lannon agreed this logistically makes more sense.

Note 20 on existing page reads: All lots must be rough graded as part of P.I.P. Construction. The right-of-way shall be topsoiled, seeded and stabilized as part of P.I.P. construction. The developer’s engineer proposes: “*The right-of-way shall be rough graded and stabilized as part of the P.I.P. construction.*” Lannon said he disagrees and would suggest no change be made to that particular note.

Note 22 on existing page reads: All utilities including electric, gas, and phone shall be installed prior to final paving (i.e. top course) of roadways. The proposed note is changed to read: “*All public utilities shall be installed prior to final paving (i.e. top course) of roadways.*” Lannon said he is okay with this change.

Note 34 on existing page reads: Sidewalks to be installed prior to acceptance of public improvements. The proposed note is changed to read: “*Sidewalks to be installed on a lot-by-lot basis with an expiration period. At the end of the expiration period if the sidewalks are not in they will need to be put in. (Agreement similar to that of French Landing agreement).*”

Seaman said Note 34 is going to have to be worked out into an agreement, similar to that of French Landing. There should be an agreement signed by the developers.

**Geiben MOVED to accept the changes to Notes 16 and 22; with Note 34 to be worked out by Town Attorney. No change to be made to Note 20, as recommended by the Town Engineer. Seconded by Bax and carried 5-0.**

Water: Townsend thanked the Town Board getting the ball rolling on the Water Main Project.

Finance: Blazick said she had four issues.

- 1) Regarding medical coverage, Blazick said they are going to change the plan year from January 1 – December 31 to December 1 – November 30. Insurance rates are going up 15% on January 1. If the plan goes into place December 1, it will be an eight percent increase, saving the Town \$25,000. Blazick did not think there would be any ramifications to Town employees with this change.

**Geiben MOVED for approval. Seconded by Bax and carried 5-0.**

- 2) The Police Explorers are getting up and running, doing more and more. Blazick wanted to set them up in their own “T” account (Trust & Agency). Right now, they are being combined with the Dare, DWI Funds. She wanted to separate the funds.

**Geiben MOVED to set up a TE-9 (Police Explorers) account. Seconded by Bax and carried 5-0.**

- 3) Kansas State Bank is the bank that finances two pieces of equipment purchased by the sewer department and subsequently transferred to highway and one to parks. Those balloon payments are due November 1. She asked the Board to approve a post-audit payment. This is the final payment and she does not want it to be late.

**Geiben MOVED for approval. Seconded by Morreale and carried 5-0.**

- 4) Lastly, Blazick handed out a tentative schedule to interview department heads and non-profit agencies regarding the 2017 Tentative Budget, October 17 beginning at Noon.

Attorney Seaman said since they are having that budget meeting on Monday it would be a good goal to adopt the Preliminary Budget at the Town Board meeting, October 24 and schedule a public hearing at that meeting on the Preliminary Budget. The hearing must be scheduled on or before the Thursday, following Election Day (11/10).

*SEWER EXEMPTION FEES:* The Board received a request from Susan Barber, Harper Drive for a sewer exemption on her next water bill. She had to drain her in-ground pool for repair and servicing. She provided a copy of an invoice for the services. The pool holds 22,275 gallons of water.

**Geiben MOVED to approve the request from Susan Barber for exemption of the sewer portion of her water bill in the amount of \$85.60. Seconded by Bax and carried 5-0.**

*PIPE CRAWLING CAMERA FUNDS:* The Niagara County Sewer District provides the Town of Lewiston a yearly reimbursement of \$20,000 for the Town's work on inflow and infiltration in the Town's South Sewers. In 2014, The NCSD approved a lease to own Pipe Crawling Camera that the Town of Lewiston has been making payments on since.

Ritter asked for approval to spend \$20,000 from the South Sewer equipment line SS3-8120-0200-0000 with these funds to be reimbursed by the NCSD.

**Bax MOVED for approval. Seconded by Morreale and carried 5-0.**

*UNPAID WATE/SEWER ACCOUNTS:* The Board received a request from Darlene Norwich, Deputy Town Clerk/Water Clerk to place unpaid water and sewer accounts for the Town of Lewiston on the 2017 Town and County taxes. The breakdown is as follows:

Water	\$ 94,454.59
Sewer (Master)	80,535.70
Sewer (South)	8,818.12
Town Charge	<u>58,500.00</u>
TOTAL	\$242,308.41

A complete listing of those who are unpaid are on file in her office.

**Geiben MOVED to approve. Seconded by Bax, for discussion.**

Geiben asked if there could be any consideration to those residents who pay their bill on a regular basis but for some reason did not pay their bill in the last month. That will go on their taxes along with a \$100.00 Service Fee. "Is there any way we could have a cushion in there of 30 days so those people who have been faithfully paying it on time don't get overly penalized for one little error."

Seaman said there already is a cushion. You have a window to pay with no penalty, then, a second window to pay with penalty. It's not until the third window that it actually hits that charge and goes on to the taxes, if I understand it correctly.

Broderick said he would need Darlene here to explain that.

Geiben asked if the Board had the authority waive the \$100 service fee. Seaman said the Board enacted a local law to include a service fee. "I wouldn't advise that."

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Geiben asked Seaman to look into whether there was some way they could give some consideration to people that have regularly and faithfully paid their bills on time.

Broderick said he would talk with Darlene about this.

**Motion carried 5-0.**

**SANBORN BUSINESS ASSOCIATION: Bax MOVED to appoint Bill Geiben as liaison to the Sanborn Business Association. Seconded by Morreale. Carried 5-0.**

Before calling on residents, Geiben publically thanked Tim Masters, Chris McAuliffe and Sandy VanUden for arranging the training sessions for the Planning and Zoning board members. It was very well attended.

*STATEMENTS BY RESIDENTS:*

Rosemary Warren, Griffin Street, said the striping is done in Sanborn. They are still awaiting signs for the crosswalks. She then talked about the work release program and the workers who work at the Sanborn Historical Society. These work release people see us working and they can't believe that we are having a good time working. I think they are getting a new look at life. I'm really sold on that and we could not operate without them. They put up the tents and do other labor.

Anita Munzi, Chairman of the Zoning Board of Appeals, said they have made many changes on the ZBA level. They are bringing themselves up to speed on the laws and interpretation of the laws and doing things in accordance with NYS. They have changed a lot of their documents and they will begin putting them on-line. They have had some training in-house that gives them the opportunity to ask one-on-one questions. Another training session is scheduled November 8 from 6-8 p.m. and she invited the Town Board to attend. Lastly, Munzi said she is very concerned about Planning and Zoning Board members going on private property to look at variances or other things. I would really feel bad if anyone fell or had a dog bite. We're considered independent contractors and we do not fall under the Town's insurance umbrella. I would like for the Board to think about putting board members on the payroll instead of being paid by voucher. If someone were to get hurt we would then be covered under the Workers Comp. umbrella. That would be my wish list moving forward, she said.

Before closing, Attorney Catalano asked for an Executive Session for consultation with Attorneys and pending litigation.

*ANNOUNCEMENTS:*

Flu Clinic 9 – 11 a.m., Friday, October 14, 2016

*UPCOMING MEETINGS:*

Budget Work Session: 10/17/16; Noon – 5 p.m.; Planning Board: 10/20/16, 6:30 p.m.; P.H. (Over-ride Tax Cap)/RTBM: 10/24/16, 6 p.m.

**Geiben MOVED to enter into Executive Session for consultation with Attorneys and Pending Litigation. Seconded by Bax and carried 5-0.** Time: 7:15 p.m.

*EXECUTIVE SESSION:*

Minutes taken by Attorney Seaman.

Present: Broderick, Bax, Ceretto, Geiben, Morreale, Catalano and Seaman

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Issues Discussed:

1. Filed Litigation, Caldwell
2. Consultation with Attorney

**Bax MOVED to adjourn meeting and reconvene work session. Seconded by Ceretto and carried 5-0.** Time 7:34 p.m.

Action Taken:

**Ceretto MOVED to authorize A. Joseph Catalano to defend the Town in Article 78 Action, Caldwell v. Town of Lewiston. Seconded by Morreale and carried 5-0.**

**Bax MOVED to adjourn. Seconded by Ceretto and carried 5-0.** Time 7:34 p.m.

Transcribed and  
Respectfully submitted by

Carole N. Schroeder  
Deputy Town Clerk