

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, W. Geiben & R. Morreale; Dep. Sup. W. Conrad; Eng. B. Lannon; Attorneys B. Seaman & J. Catalano; Bldg. Insp. T. Masters; Finance Director/Budget Officer M. Blazick; Acting Highway Supt. D. Trane; WPCC Ch. Op. J. Ritter; Chief F. Previte; 1 Press; 9 Residents and Dep. Clerk C. Schroeder

The Supervisor called the Work Session to order.

*AGENDA:*

Additions: Broderick: Petition to Create a Town of Lewiston Drainage District #1 (French Landing); Bax: Claim for Ice Rink and Tent Damage; Geiben: Greenway Request for Par at N. 6<sup>th</sup> St.

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

*ABSTRACT:*

**Morreale MOVED to approve the Regular Abstract of Claims Numbered 1509 to 1761 and recommended payment in the amount of \$545,358.33, plus a post audit of \$10,719.64. Seconded by Bax and carried 5-0.**

*PETITION TO CREATE DRAINAGE DISTRICT #1 (FRENCH LANDING)*

Attorney Catalano excused himself at this time, due to a conflict of interest.

Attorney Seaman said when French Landing was first presented, the Developer offered the Town a couple of options for the purpose of maintaining and being responsible for the stormwater drainage – One being Homeowners Association or the creation of a Special District to do the same thing. At that earlier time, the Counsel for the Subdivision communicated to the Town that it would have a Homeowners Association (HOA). However, they have changed course and have now filed a petition with the Town to create a Special Drainage District. There is a particular section of Town Law that allows 50% of the owners of any parcel or piece of property in the Town to petition this district.

Seaman proceeded to explain the difference between a HOA setup and a District setup. If a HOA were to be created, then the Town would have nothing to do with maintaining the drainage. Whatever work that is done would be the sole responsibility of the HOA. They would have to levy fees and carry out that work from year-to-year. A special district puts the responsibility of doing the work on the Town but the financial payment for all of the work is borne by the individual or individuals who own property there thru a special district assessment or tax every year. Either way, the financial cost is borne by the people who live in that area. Seaman said there are positives and negatives to each of these set ups. The positives for a HOA is that the Town has no involvement. The negative is that some HOAs are not run properly. They don't collect their money properly or provide maintenance. Then, you have Town residents who may have drainage problems in the future who are upset about it. Another negative is the transfer of property within an HOA which requires additional steps that is not necessarily desirable. The drainage district would allow for the Town to dictate what the costs are going to be and levy it as a tax. Either way is viable.

The difference between the past and the present is heightened regulations from the DEC requiring retention areas, basins, etc. According to the petition, \$256,000 of infrastructure will be put in that the Town doesn't have to pay for. So, there is this new expense and new on-going maintenance expense. There is a good argument why it should be dealt as a special district or HOA, rather than a town-wide district.

For tonight's purposes, the Town does not make any decision. The process is that the Town recognizes that a petition has been filed. There is a requirement in the Law that

the Town put forth an Order that sets forth some of the things in the petition and sets a Public Hearing. Before the Town can create a Special District, a public hearing has to be set. If the Town Board is satisfied with everything, Seaman said the Board could adopt the Order setting a public hearing and adopt the proposed drainage district cost calculation document.

Broderick MOVED to Adopt the Order Concerning Drainage District Petition and Proposed Drainage District Cost Calculation district petition and proposed drainage district cost calculation document. Seconded by Bax for discussion.

Ceretto asked if this would set a precedent. Seaman said the Town could end up with a Drainage District for every new subdivision in the Town. Some towns have done that. With these new heightened regulations, every time a new subdivision comes in there is a new district, a new taxing entity. The Town would decide every year how much tax money they would have to raise to deal with the drainage. The tax would be spread only among the residents who live within that development and nobody else.

Blazick asked who would own the property the ponds are on. Seaman said the individual property owners. The Town would have hundreds of easements for access to the ponds.

Also, Blazick said with a special district budgeting becomes critical in how you budget for that district. The budget is due in September for what is needed for the following year, although tax money won't come in until January – March of the following year to pay for those expenses. Depending on when the Town takes possession, you might have a leg where you're fronting the cost. You will have to build a reserve. We will have to be very conscientious how you budget this so that your budget covers these expenses. You're always going to have the risk of unforeseen costs and that's the nature of the beast. It's not a simple thing. I want to make sure the Board looks at all the impact and all the possibilities.

**Geiben MOVED to adopt the Order Concerning Drainage District Petition and set a Public Hearing on Monday, June 27, 2016 at 6:00 PM on the creation of a Drainage District comprising the property commonly known as the French Landing Subdivision. Seconded by Bax and carried 5-0.**

**Bax MOVED to adopt the Proposed Drainage District Cost Calculation for French Landing Subdivision and accept the Map, Plan and Report for Town of Lewiston Drainage District #1 (French Landing). Seconded by Geiben and carried 5-0.**

*RIVERWALK SUBDIVISION PHASE 4A, FINAL PLAT:*

Morreale asked if any of Mrs. Glasgow's comments were addressed. Seaman said when the Developer filed their Preliminary Plat and Final Plat, they had removed the properties from the Homeowners' Association. Originally, 4 of the 17 properties were included in a proposed HOA. I didn't tell them one way or the other how I felt on that. From the onset, they wanted to remove the 4 parcels from the HOA. They petitioned the Attorney General and provided me a copy of a letter which incorporates their amended petition into the original HOA filing. For all intents and purposes, they have taken the steps with the Attorney General's office to have those four (4) parcels removed from the HOA. It was not on my recommendation. It was something they did.

With regard to the speed bumps, Broderick said this road would be dedicated to the Town and the Town could not put in speed bumps because of plowing. He and Chief Previte will monitor any traffic issues that arise.

Masters said connecting the road in Phase 4A will be a win-win for the Town. The Fire Bureau has made it very clear in letter form over the years that they need that road connected to adequately serve the community with ambulance and fire service.

With regard to a request from H. Carl Hoffman, Board President of the Riverwalk HOA, Geiben said he is not opposed to the Town maintaining the road running through Joseph

Davis State Park. I think it would be beneficial to the community. Over the years, we have tried to get State Parks to allow us to open it and maintain it but they always come up excuses why we shouldn't. We should ask them again for permission to open it with only the understanding that we would plow it and salt it. That's it. Broderick said he would reach out to State Parks regarding this.

**Morreale MOVED to accept the Final Plat for Riverwalk Subdivision, Phase 4A. Seconded by Ceretto.**

The Building Inspector asked if the 17 homes in 4A would be removed from the HOA. Seaman said as he understood it there were a number of home never included in the HOA. Most of the lots to the western portion were never part of the HOA. The ones that are have been removed.

Mr. Hoffman, Riverwalk HOA said that their annual meeting held earlier in June, both the Developer and Building addressed the Homeowner's Board. We were told the HOA will continue up to the barrier at the east end of Riverwalk now which will be six (6) additional lots for a total of 45 in the HOA. Everything to west of that barrier at the east end of the unfinished road would not be part of the HOA.

**Motion carried 5-0.**

*REQUEST FOR SEWER CREDIT:*

Request from Angelo Sarkees, Pletcher Road, for exemption from the sewer charges for refilling a pool (27,000 gallons) after liner replacement.

**Broderick MOVED to issue a sewer credit in the amount of \$106.25 to Angelo Sarkees, Seconded by Bax and carried 4-0-1.** (Morreale abstained)

As he had another function to attend, Broderick turned the meeting over to Dep. Supervisor Conrad. Time 6:45 PM.

*DEPARTMENT HEAD CONCERNS:*

Engineer: Lannon said they have proposed updates to the Subdivision Regulations. He suggested they be distributed to the Town Clerk, Planning Board, Building Inspector and Town Attorneys for review and comment. He would assemble those comments and bring a set to the Town Board for consideration in the not too distant future.

The Engineer said he would work with Jeff Ritter on the Lower River Road Comfort Station to put in sewer service in to that facility.

The water line at Legacy Drive is in. It has been tested for pressure. Chlorination and bacteriological testing will be done this week.

Some minor restoration is scheduled to be done this week at Lauren Court.

Geiben asked the Engineer to explain how erosion control inspections take place on subdivisions. Lannon said a developer would come in and apply for review and approval of a Storm Water Management Plan. The developer's engineer would go out on a bi-weekly basis and conduct those inspections. If over five (5) acres, it is done twice a week. During the course of that time, the Town provides periodic inspections. Reports are placed in a mailbox that is typically set up on site. Reports are electronically distributed to the Town Engineer, Jeff Ritter, contractor and DEC. If something is not done according to code, the developer is notified and is given a period of time to correct it or respond to the matter.

Finance: Blazick said she had three issues for the Board's attention.

- 1) The first issue was a request for a blanket permission to adjust the chart of accounts to be in compliance with the Office of the New York Controller's Accounting and

Reporting Manual. Historically, the Town has not been recording expenses to the correct accounts. Blazick said she could not change things in the past but she wants to make sure they are charging the correct accounts from 1/1/2016 moving forward. This is not anything that will increase costs or authorizes expenditures.

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**Bax MOVED to authorize the Finance Director to bring the chart of accounts into compliance with the State Controller's Accounting and Reporting Manual. Seconded by Geiben and carried 5-0.**

The Supervisor commended the Finance Director on the great job she is doing.

- 2) Secondly, Blazick noted that Key Bank is purchasing First Niagara Bank. Last week, a representative at First Niagara said the local branch is slated to be taken over by Northwest Savings Bank. That sale will probably take place in September. The actual takeover of First Niagara will take place in October. As a result, there would be one month where the Town would not have a local branch to make deposits. In the interim, there is a branch in Youngstown where deposits can be made.

Blazick noted that in the conversion, it is rumored that Key Bank is going to set up a specific government group to handle New York's municipal accounts. The only other alternative would be M & T Bank, but they do not have a local branch.

- 3) Lastly, Blazick spoke about the Town's computer system. She said there are four (4) component parts that go in to how the computer system functions: Data input; software; technical support; and server/hardware. What she is finding is the computer system is down a lot. The computer system was down all day Thursday and most of Friday. Blazick said she would recommended replacing the server. Based on a recent quote, she estimated \$11,000 for replacement. This is just not meeting the Town's current needs but would provide for virtual servers which allows for a lot of expansion. This is something we absolutely need to do, she said. The server is being over-worked.

The other thing that has come to her attention is that there are two computers in the Town Clerk's office that are still running on the XP operating system and are no longer being supported by Microsoft. They are not getting security updates. Both of those are on the internet which allows a tunnel of access into the system very easily. If we have to replace the server you should replace those two computers at the same time. They are basically \$1,000 each. There is \$13,000 worth of work that needs to be done, immediately. This is a critical issue for us. We are losing productivity constantly.

Geiben asked how this would be funded. Blazick said they have the H99 Fund which is the money from the original NYPA settlement. There is \$133,000 in that account.

**Broderick MOVED to authorize the Finance Director to obtain two additional quotes for discussion at the next meeting. Seconded by Geiben and carried 5-0.**

*KYMEL'S DOG WASH:* Geiben said the Board received a request from Mark Thomas for a dog wash at the Dog Park. Geiben said Mr. Thomas received erroneous information as the Dog Park is 100% in the Village of Lewiston. It's up to Mr. Thomas to work with the Village in regards to this.

*RE-ZONING: A-1 LAND CARE, RIDGE ROAD:*

The Board received a request from Jason Lombardi for re-zoning of properties on Ridge Road:

- \* For the following SBL# 102.02-2-53 and 102.02-2-54 from RR to R2, which would be consistent with the Master Plan.

- \* For the following SBL# 102.02-2-55 to be re-zoned General Business to be consistent with adjacent property, which would be consistent with the Master Plan.

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**Geiben MOVED to refer this request to the Planning Board for consideration. Seconded by Bax and carried 5-0.**

*POLICY CONCERNING RECORDS AVAILABILITY:*

Seaman said he was asked to look at this matter several weeks ago; specifically the Public Officers Law section 103(e) which requires the Town to make certain records available at or before public meetings and on the Town's web site, to the extent practicable. Seaman said he drafted the following Policy for review and/or amendment. The Clerk was asked to post the proposed resolution on the web-site for public comment.

POLICY CONCERNING RECORDS AVAILABILITY

- 1) Prior to public meetings of the Lewiston Town Board, Lewiston Planning Board, and Lewiston Zoning Board of Appeals, the Town Clerk shall cause the following records to be posted on the Town's web site along with and at the same time that the agenda for such meeting is posted:
  - a) Any proposed resolution, local law, rule, policy, or amendment thereto which has been drafted prior to the meeting and which appears on the agenda for such meeting.
  - b) For Planning and Zoning matters appearing on the agenda, the face sheet which discloses the applicant, location of property involved, and nature of the request being considered.
  - c) For contracts or agreement the approval of which appears on the agenda, the proposed contract or agreement.

The Town Clerk shall post such of the above records that are in hand at the time the agenda is posted, but shall not be obligated to post additional records that are received after such posting. Such additional matters shall, however, be made available at the public meeting.

- 2) The following records shall be made available prior to a public meeting at which they are to be discussed with the necessity of filing a Freedom of Information Law ("FOIL") request (copying fees shall apply):
  - a) For Planning and Zoning matters, the applicant's complete application, including maps, plans, etc.
  - b) For the proposed letting of contracts following advertisement for bids or requests for proposals, the bid documents and proposals submitted by bidders.
- 3) The above matters shall be in addition to, and not in place of, records available pursuant to law by filing a FOIL request.

**Bax MOVED to post the resolution on the town's web site and table its adoption until the next Board Meeting. Seconded by Geiben and carried 5-0.**

*WATER LINE REPLACEMENT:*

Lannon said he has developed construction cost estimates for the nine (9) locations identified by the Water Department Foreman. Lannon said he would review these with the Foreman on Wednesday and report back to the Town Board.

Lannon said there is a NYS Environmental Facilities Water Grant just announced. We can take a look at that, although it would be highly competitive. June 15<sup>th</sup> is the

deadline for the application this year, Broderick said. Let's get our ducks in a row for next year.

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*BEREAVEMENT LEAVE POLICY:*

Atty. Catalano said he was asked to look at the policy weeks ago. He sent around a proposed draft of the policy with highlighted, italicized wording of what is added. If there are additional items that people want included, he is opened to suggestions.

Speaking to the Finance Director, he said there was something else that needed to be addressed. He would speak to her on that.

*SANBORN FIRE COMPANY ROSTER:*

**Broderick MOVED to remove the following names from the Sanborn Fire Company active roster: Anthony Antonucci, Daniel Coleman, Nathan Daigler, Stephen Lands, Tim LeTourneau, Nicole Mallone, Alusha Price, David Slusser Jr., and Trevor Wendt. Seconded by Bax and carried 5-0.**

*MOSQUITO SPRAYING:*

Geiben spoke to the Asst. Engineer, John Sharpe who has been talking with the County Health Department. The NCHD is at a "wait and see" situation. Should the County react or respond, Mr. Sharpe will come back with a recommendation for us.

*CONEY SUBDIVISION:*

The Planning Board, on April 21, 2016, approved a request from Carmen Coney for a one-lot subdivision on property located at 2027 Langdon Road, SBL# 75.00-2.42.1, as presented.

**Morreale MOVED a negative declaration, as recommended by the Town Environmental Commission. Seconded by Geiben and carried 5-0.**

**Morreale MOVED to approve the Coney one-lot subdivision, as presented. Seconded by Geiben and carried 5-0.**

*BURNETT SUBDIVISION:*

The Planning Board, on April 21, 2016, approved a request from Douglas Burnett for a one-lot subdivision on property located at 2334 Ridge Road, SBL# 90.00-2-13.2, as presented.

**Morreale MOVED a negative declaration, as recommended by the Town Environmental Commission. Seconded by Geiben and carried 5-0.**

**Morreale MOVED to approve the Burnett one-lot subdivision, as presented. Seconded by Bax and carried 5-0.**

*HASELEY SUBDIVISION:*

The Planning Board, on April 21, 2016, approved a request from Paul Haseley for a one-lot subdivision on property located at 5873 Walmore Road, SBL# 118.00-1-48.1, as presented.

**Morreale MOVED a negative declaration, as recommended by the Town Environmental Commission. Seconded by Bax and carried 5-0.**

**Morreale MOVED to approve the Haseley one-lot subdivision, as presented. Seconded by Geiben and carried 5-0.**

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*RIVERWALK PRELIMINARY PLAT, PHASE 4A:*

The Planning Board on April 21, 2016, approved a Preliminary Plat request for GMD Development & Samuel Talarico for Riverwalk, Phase 4A, as submitted. Lots 9-12 received variances from the Zoning Board of Appeals. The drainage easement for lots

4-8 will be moved to the north. A driveway carriage light is to be installed on each lot to stay in conformance with the existing neighborhood.

Lannon provided some back ground information regarding SEQR. In 2005, the Town Board approved all of the phases for Riverwalk. The preliminary plat was approved and a negative declaration was approved for the entire subdivision. The Town Board has a new Phase 4 before them for consideration. Included in that is the elimination of Phase 4B and a slight revision to Phase 4A. Those two actions have a net reduction of ten (10) homes to what is contemplated now. A negative declaration was issued 11 years ago. There is now less impact. In a letter sent to the Environmental Commission and copied to the Town Board, it is stated that the findings of the prior Town Board 11 years ago are consistent with what the current Phase 4A recommendation is. In my mind, it's not issuance of another negative declaration. It's a re-affirmation of what was done 11 years ago.

**Geiben MOVED to re-affirm confirmation of a Negative Declaration of Phase 4A, Riverwalk Subdivision. Seconded by Morreale and carried 5-0.**

**Morreale MOVED for approval of the Preliminary Plat for Riverwalk, Phase 4A, as presented. Seconded by Ceretto and carried 5-0.**

*ESCARPMENT/RIVER BANK COMMITTEE:*

Atty. Catalano said he met with the Environmental Commission regarding the two ad hoc committees. The Commission wants the committees to report and work under them. The Commission would share any recommendations to the Town Board after review.

Catalano said he had a discussion with Atty. Seaman about what they thought should be done. What the Environmental Commission wants done and what should be done are two entirely different things. They have no authority under their guidelines to have the committees work under them. Catalano said he would create a resolution where the Town Board creates the two ad hoc committees. The committees would report to the Town Board. It's much easier legally if we have the Town Board take care of it. That is the way I would draft the next resolution. That will be ready for approval at the next meeting.

*APPOINT ALTERNATE TO ZBA:*

**Broderick MOVED to appoint Gary Heuck as alternate to the Zoning Board of Appeals. Seconded by Geiben and carried 5-0.**

Masters said there should be a better handle on what the Town expects from Planning and Zoning members as part of their required four (4) hours of training. He asked the Board to clarify what they are looking for.

*OPEN FLOOR FOR CITIZENS COMMENTS:*

The Supervisor read the following procedure for public participation:

To create a procedure where all citizens can be heard, the Lewiston Town Board hereby institutes the "Privilege of the Floor" comment period, which will allow participation at each regular town board meeting.

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- 1) Length of time that a member of the public may speak can be limited. Depending on the number of speakers, we limit the time frame to 3-5 minutes per person.
- 2) Sign in with your name and address if you wish to speak.
- 3) When your name is called, stand and proceed to the microphone, your time will start once you start your comments.
- 4) The Town Board has been advised by counsel not to respond to the comments or questions. Instead they listen and if appropriate move to add the item in question to the next work session. This allows Town Board members to do research to gather the necessary information to address those questions or concerns if they choose to do so.
- 5) The Town Supervisor is the designated timekeeper and sees to it that civility and orderly conduct is maintained during the public comment period.

**Broderick MOVED to enact the Privilege of the Floor procedures. Seconded by Bax and carried 5-0.**

*CWM EXPANSION:*

Bax asked the Town Board to go on the record as to its position with respect the CWM Expansion. He read the following resolution:

WHEREAS, there are applications pending to site a commercial hazardous waste treatment, storage and disposal facility in the Towns of Lewiston and Porter in close proximity to schools and residences;

AND WHEREAS, the designated transportation route for the proposed facility is predominately located in the Town of Lewiston where hazardous waste and PCB truckloads would be required to pass in front of the local hospital, numerous residences, and all Lewiston-Porter public schools;

AND WHEREAS, the adopted New York State Hazardous Waste Facility Siting Plan concluded, "**There is no need for additional hazardous waste management facilities or expanded hazardous waste management capacity in New York;**"

AND WHEREAS, commercial hazardous waste treatment, storage and disposal facilities pose risks to public health together with adverse economic effects;

AND WHEREAS, the Towns of Lewiston and Porter as well as Niagara County already bear a disproportionate burden of hazardous waste permanently landfilled in the state;

AND WHEREAS, the Town of Lewiston is primarily responsible for promoting the health, safety and general welfare of its residents, (Town Code Section 195-2).

BE IT RESOLVED, that the Town of Lewiston continues to oppose the permitting, siting or operation of commercial hazardous waste treatment, storage and disposal facilities in Niagara County.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Village of Lewiston, the Village of Youngstown, Niagara County Legislators Clyde Burmaster and Rebecca Wydysh, State Sen. Robert Ort, Assemblyman John Ceretto and Governor Andrew Cuomo

**Bax MOVED the forgoing resolution for adoption, Seconded by Ceretto, for discussion.**



Geiben asked how this is different from previous resolutions. Bax said it is different in that it addresses both storage and treatment on the facility which the prior entity contemplated.

Geiben then asked how often the Town Board has done this resolution. Bax said it is done whenever there is a change of the Town Board, at least in the last ten years.

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Geiben asked that it be amended to include sending a copy to the Town of Porter as well.

**Bax MOVED to accept the amendment, Seconded by Ceretto:**

Roll Call: Councilman Bax – Aye; Councilwoman Ceretto – Aye; Councilman Geiben – Aye; Councilman Morreale – Aye, Supervisor Broderick – Aye

**Carried 5-0.**

*HIGHWAY SUPERINTENDENT:*

Since the passing of Douglas Janese, Broderick said the department is running efficiently under Deputy Supt. Jeff Cosgrove. However, he said it is now time to move forward and appoint a Superintendent.

**Morreale MOVED to appoint David Trane as interim Highway Superintendent effective June 1, 2016. Seconded by Bax and carried 5-0.**

Morreale thanked the Board for putting party affiliation aside and putting the qualified person into the position.

*SETTLEMENT AGREEMENT:*

Atty. Seaman referred to an agreement of the Town, Teamsters and Town Employee in that the employee was appointed Bingo Inspector for which he received stipend pay, in addition to his full time duties as Dog Control Officer. Teamsters demanded that the Employee receive overtime pay for any hours exceeding 40 during a work week. The Settlement states the Employee shall be paid \$375.00 as a settlement of any and all claims or disputes regarding his wages since his appointment as Bingo Inspector.

**Bax MOVED to authorize the Supervisor to sign the agreement. Seconded by Ceretto and carried 5-0.**

*TOPICS FOR WORK SESSION:*

Geiben suggested specific topics be identified for discussion so that they can bring in expertise if need be. It would give the Board the opportunity to sink their teeth into the topic.

Before closing, the Supervisor said the next Board Meeting is scheduled for 5/23/2016, 6 PM; Historical Society: 5/10/2016, 6 PM; Environmental Commission: 5/10/2016, 7 PM; Zoning Board: 5/12/2016, 7 PM; Planning Board: 5/19/2016, 6:30 PM.

*EXECUTIVE SESSION:*

**Broderick MOVED to enter into Executive Session re consultant with Attorneys. Seconded by Bax and carried 5-0. Time 7:15.**

No Action taken.

**Broderick MOVED to adjourn. Seconded by Ceretto and carried 5-0. Time 8:00 p.m.**

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk