

August 25, 2025

Regular Town Board Meeting

6:00 PM

**PRESENT:** Supervisor S. Broderick; Councilmembers R. Morreale, J. Jacoby & S. Waechter; Dep. Sup. W. Conrad; Police Chief M. Salada; Bldg. Insp. T. Masters; Atty. A. Bax; Sr. Coordinator M. Olick; Rec. Director T. Smith; Eng. B. Lannon; Water Foreman D. Zahno; WPCC Ch. Op. J. Ritter; 1 Press; 20 Residents & Deputy Clerk T. Burns

**ZOOM:** 1 Press

**EXCUSED:** Councilman J. Myers; Finance Director J. Agnello; Hwy Sup. M. Zahno

Supervisor called the meeting to order, followed by the Pledge of Allegiance and a moment of silent reflection.

*AGENDA AMENDMENTS:*

Councilwoman Waechter: Senior Center Hire; Parking Lot – Town Hall/Senior Center

Agenda **Jacoby MOVED to approve the agenda, as amended. Seconded by Morreale and carried 4-0.**

*PRIVILEGE OF THE FLOOR*

Andrew Davis-Townline Road

Davis addressed the Board concerning the three businesses operating out of 5368 Townline Road. Davis has been watching the owners build more structures. Right now, they're building a 20-foot pumpkin pyramid that they're going to put thousands of pounds of pumpkins on and little kids will be playing underneath it. There are bales of hay with an apple canyon to shoot things which is only a few feet from where the little kids ride a pig ride. It's an amusement park.

Davis said this is not going to happen because the Board is going to do their job as Town Officials, following the zoning ordinances and all of Lewiston's codes. There are so many violations. Who enforces these? The Board. As a tax paying resident, Davis hopes nobody gets hurt and the injured person doesn't sue the owners and the Town and his taxpaying money doesn't go to a lawsuit because the Board didn't do their job. "Please shut them down".

Bill Burg – Chairman of Planning Board

Burg said he appreciates the passion in the room and respects the fact that a concerned citizen raised a question that will put Burg in front of the Ethics Board and said, "it makes us all better". If it pleases the board and the citizens of Lewiston, his statement is this:

"I've been on the Planning and Zoning Board for 10 years; I am the current Chairman of the Planning Board. We take it very seriously. We meet once a month and generally have one to four applicants every month. If I like or dislike the project, it is of zero consequence. The process is always the same. I review the application, I visit every applicant site, I have walked muddy, countless fields to make sure we haven't missed anything. I confer with the Building Department, I

discuss my concerns, they discuss their concerns. I meet with the Town Engineer, I discuss my concerns, he discusses his concerns. I meet with the Planning Board Attorney and ask what legal path we have to move this applicant forward for recommendation of approval from the Town Board and what legal justification do we have to deny the applicant. We take it very seriously. Then, we have our Planning Board meeting. I chair the meeting. I don't make motions; I don't second motions. I keep us all on track. I do all of this without any consideration of financial benefit or the thought of any recourse. I do this to do my part to make everything better for this community and I will happily discuss my position with anybody. There is a legal process to challenge any decision that we made on the Planning Board called article 78 and I believe to the best of my knowledge, in 10 years, the Town Board has not had to spend one dollar defending any decision the Planning Board has made".

### *NYSDOT PRESENTATION*

Brian Dankert is the NYSDOT Project Manager for Region 5. The DOT will be replacing two culverts in the Town of Lewiston. The first culvert replacement will be on Military Road over Fish Creek located North of the intersection of Fairway Drive. The culvert is 84 years old and has exhausted its service life. The culvert has widespread deterioration with corrosion holes and spalled concrete and the culvert doesn't meet current criteria for conveying and resisting storm flows. It's undersized and missing the necessary rip-rap at the inlet and outlet. There is a raised outlet that inhibits aquatic organism passage and the guide rail needs to be upgraded to meet current standards.

The work anticipated is to fully replace the existing culvert along its current location with a new 16'x7' concrete 3-sided structure. In order to do that, the DOT will need to reconstruct a little bit of the roadway. They will also be putting in stone aprons at the inlet and outlet that helps with scour and will be installing a combination of guide rail and bridge rail over the culvert on both sides. In order to accomplish the work, there will be some tree removal around the culvert site needed due to excavation in order to get the new culvert in. There will be some temporary easements and permanent easements needed at the outlet to allow for future maintenance.

During construction, Military Road will be closed to through traffic for approximately 4-6 weeks. An off-site detour will be used which will circle around Military Road to Upper Mountain Road to Lewiston Road which will be about a 1-minute net increase for through traffic. Local access will be maintained on all driveways and Fairway Drive. No night time construction will be permitted for the project. There are some decent traffic volumes. As part of the analysis, the DOT looked at stage construction where you would build one half of the culvert at a time. The issue would be the road is 2 lanes wide and there wouldn't be enough room. There would have to be alternating one way traffic with a temporary signal and with the traffic volume, it would cause very large delays. The DOT wants the contractor to get in and out to cause very little impacts.

The second culvert project is on 104 over Fish Creek. This culvert is 63 years old and has exhausted its service life. This culvert has widespread deterioration with spalling concrete, cracks and corroded reinforcement. This is also a good opportunity to upgrade the guide rail to current standards. Similar to the other culvert, the work anticipated is to fully remove and replace the culvert under the roadway along the same alignment as the existing culvert. The culvert will be replaced with a 12'x7' concrete 4-sided box culvert. The roadway will be reconstructed immediately adjacent to the culvert. New guide rails will be installed on both sides of the road and

the stone rip rap apron will be reconstructed. The water main will need to be relocated and tree removal will be needed. A temporary easement will be needed for contractor access.

Given the much heavier traffic volumes on 104, the plan would be to maintain traffic during construction with two lanes of traffic throughout construction. The culvert will be built one half at a time and the DOT will utilize lane shifts and tapers in order to shift the traffic to one side while one half of the culvert is replaced and then transfer the lane shift over and build the second half of the culvert. With two stages, it does lengthen construction duration and the anticipated duration is 10-12 weeks, but traffic will be open throughout the entire duration. The timing of this culvert reconstruction will be off-set from the one on military road so they're not under construction at the same time. Driveways and the golf cart crossing will be maintained throughout construction and there will be no nighttime construction.

These two culverts are part of a larger multi-site culvert replacement project that NYSDOT is undertaking with several other sites throughout the region 5 area. The project contains both Federal and State funding and they're currently in the preliminary design phase. Construction is anticipated to happen in 2027.

Broderick said at the intersection of Fairway Drive and Military Road, there are a lot of dead ash trees that are pushed over and asked if the DOT could clean up and remove them. His fear is, they rot and get into the creek and go into residents back yards. Morreale said when the culvert work begins, and a heavy rainstorm comes through, is water going to be able to go through the culvert during construction. Dankert said the contractor is obligated to maintain the flow during construction. Waechter asked when this project is going to start. Lewiston is very active in the summer months with Artpark, festivals and the Porter Cup and hopes this will be taken into consideration. Also, will the barricades be placed so there is access to St. Mary's Hospital. Dankert said the barricade will be closer to Fairway Drive and will be open to local traffic. St. Mary's will not be blocked and there will be detour signs. Waechter said there will be a large impact on residents in the area with people still taking the "short-cut" that is only open to local traffic.

Lannon said there is anticipated tree removals for the culvert replacement on Military Road in the creek and asked if the DOT has or is in the process of obtaining permits from the DEC or Army Corps of Engineers to dredge the creek. Dankert said they will not be dredging the creek but they do have to get the permits for doing work on the creek. This will be part of the final phase. Lannon also said they are increasing the size of the culvert and the water line on 104 is brand new so asked if they will have a chance to comment on what they are proposing. Dankert said absolutely. They are just in the early design stages. Salada said he has concerns regarding the traffic on Fairway Drive. During the replacement near North Hewitt Drive, they were inundated with traffic complaints for people who were skipping through that area so anything we can do signage wise to limit that so people don't start speeding through the neighborhood would be great.

Masters said he doesn't know how they're going to make the stone exit and entrance without dredging the bottom of the creek. Also, when the DOT relocates the water line, will it go around further west and have to be a permanent easement? Dankert said there is enough room in the highway boundary where they would not have to have a permanent easement. A resident commented on the dead ash trees and said he would like to see the living trees remain but having the dead trees removed would be precious. Broderick said he believes where this resident is located

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would fall under the Highway Department and he would love to come look. Another resident said during concerts at Artpark and festivals, Fairway Drive and Meadowbrook Drive become a racetrack and short cuts for people driving through and it's hard to even get out of driveways for residents who live in the area.

#### *DEPARTMENT HEAD STATEMENTS*

##### Acting Town Clerk – A. Smith

Smith presented four bids for sealing and striping of the parking lots at the Senior Center and Town Hall. Black Gold Sealer bid \$7,046 for Town Hall and \$9,700 for the Senior Center. Perfect Seal 716 bid \$7,985 for Town Hall and \$14,200 for the Senior Center. Baughman's Magic Seal bid \$9,000 for Town Hall and \$14,550 for the Senior Center. Prestige Paving & Sealing bid \$9,164 for Town Hall and \$10,850 for the Senior Center.

Sealing/  
Striping  
Sr. Center  
& Town Hall

**Jacoby MOVED to accept the bid from Black Gold Sealer in the amount of \$16,746 to seal and stripe the parking lot at Town Hall and the Senior Center with funds from H97. Seconded by Waechter and carried 4-0.**

The Planning Board meeting scheduled for October 16, 2025 conflicts with the Town Work Session. The Planning Board meeting will be moved to October 23<sup>rd</sup> at 6:30pm.

##### WPCC Ch. Op. J. Ritter

There was an open house scheduled at the Treatment Plant last Saturday that had to be cancelled due to an issue at the plant. Ritter said if anybody is interested in a tour, he would still be happy to show them the Treatment Plant.

##### Sr. Coordinator M. Olick

The Senior Center will have their Buffalo Bills kick off party on September 5<sup>th</sup>. There will be a flu shot clinic with Wegmans on September 30<sup>th</sup> from 10-12 at the Senior Center. The Center will also be adding another yoga class on Mondays due to the current class being full. Broderick said he appreciates what Olick has done at the Senior Center. This is what the Town asked Olick to do when she took the job. The parking lot at the Senior Center is always packed.

##### Rec. Director T. Smith

Smith said all camps have ended and they had a great year with a great turnout and positive feedback. The Recreation Department is working on implementing a travel baseball and softball league to the Town to develop our kids more and give them an opportunity to play more competitively outside the Town. Bocce and Cornhole is going great and the Highway Department did a great job with the courts. In two months, the Recreation Department and Senior Center will do their 2<sup>nd</sup> annual Trunk-or-Treat with their haunted house inside the Senior Center.

#### *APPROVAL OF MINUTES*

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Minutes **Morreale MOVED to approve the minutes from the 7/28/2025 RTBM. Seconded by Jacoby and carried 4-0.**

*ABSTRACT*

Abstract

**Jacoby MOVED to approve Regular Abstract of Claims Numbered 25-01974 thru 25-02140 and recommended payment in the amount of \$321,172.82 with a Post Audit in the amount of \$0. Seconded by Morreale and carried 4-0.**

**Jacoby MOVED to approve Regular Abstract of Claims Numbered 25-02141 thru 25-02271 and recommended payment in the amount of \$451,290.60 with a Post Audit in the amount of \$2,031.60. Seconded by Waechter and carried 4-0.**

*OLD/PENDING BUSINESS* - None

*NEW BUSINESS* - None

**SUPERVISOR BRODERICK**

Broderick read a letter from Highway Superintendent M. Zahno.

I am announcing that I will be resigning as Town of Lewiston Highway Superintendent effective September 2, 2025.

It has been my privilege to have been elected to the Town of Lewiston Highway Superintendent position. I will be forever grateful for the support of the current supervisor and Town Board, Town employees and other elected officials, as well as the Town of Lewiston residents.

Resignation  
Hwy Sup.  
M. Zahno

**Jacoby MOVED to accept the resignation of M. Zahno from the Town of Lewiston Highway Superintendent effective September 2, 2025, with regret. Seconded by Morreale and carried 4-0.**

Appointment  
Hwy Sup.  
M. Weiss

**Broderick MOVED to appoint Michael Weiss to Town of Lewiston Highway Superintendent effective September 3, 2025 at current salary. Seconded by Morreale and carried 4-0.**

Broderick said Weiss worked for Niagara County and has been working in the Town of Lewiston Water Department. Waechter asked how many years of service Weiss had. Weiss said he was with Niagara County for six years and the Town of Lewiston Water Department for almost nine years. Weiss said he has learned a lot and is willing to keep learning.

Weiss said the Highway Department will be working on milling and paving near Niagara University. This will include Penrose Street, Liberty Circle, Sherman Avenue, McKinley Avenue, Riverview Avenue and Roosevelt Avenue. The roads are in extremely bad shape and Niagara University reached out saying they have received multiple complaints regarding these roads. The Highway Department is requesting an additional \$85,000 to complete this project.

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Add. Funds  
Hwy Dept.  
Paving

**Morreale MOVED to approve an additional \$85,000 to the Highway Department for paving Penrose St., Liberty Cir., Sherman Ave., McKinley Ave., Riverview Ave. and Roosevelt Ave. with funds from H97. Seconded by Jacoby and carried 4-0.**

Broderick read a letter from Patricia Pinson – 4991 Creek Road.

Dear Town of Lewiston,

I received me water and sewer bill on 8/1/2025. The bill is for \$2,191.47. My previous bill was around \$70. I once had an issue with my sump pump water backup staying on after a power outage but have been very conscious about it since that large billing. This time however, I cannot find a culprit to this much water usage. My brother who works at the sewer plant (Jeff Ritter) said I should have someone check on the water meter and see if I am leaking water somewhere. The Town showed up and the best they could surmise is there may be a problem with the meter.

Regardless, if it was anything I could not see I would assume it was water from the sump pump assist. Not going into the home sewer but the storm sewer. My brother said I should ask the Town to at least waive the sewer charges on my bill.

Broderick said he spoke to Ritter who said it was an issue with the sump pump. Burns said there was not an issue with the meter. The meter is an older style meter and the Water Department could not extract the data to see the specific time and date the water was used. The total sewer charge on Pinson's bill was in the amount of \$983.89. Pinson's normal sewer bill is \$30.97 which means Pinson is asking for relief of sewer in the amount of \$952.92.

The Town Board needs to decide if they are willing to waive \$952.92 that did not go into the sewer. Jacoby asked if this is the best we could do. Broderick said yes. The Town pays Niagara County for water and was charged for the water that went through the meter. Bax said if this fee is waived, it will not set a precedence.

Pinson said the Water Department changed her meter because it was not working correctly. Burns said she spoke with the Water Department and the meter was changed due to the same situation happening a year ago and we could not extract the data from the meter to see when the water was used. If this happens again, the Water Department will be able to extract the data from the meter. Pinson said the red dial on her meter was not moving. Zahno said, if the red dial was not moving on the meter, it would not show any water usage. Waechter asked if the problem has been resolved. Burns said when the Water Department went to Pinson's house, her consumption was back to normal.

Waive Sewer  
4991 Creek

**Jacoby MOVED to waive the sewer charge for Patricia Pinson – 4991 Creek Road in the amount of \$952.92. Seconded by Morreale and carried 4-0.**

Finance:

The Finance Director asked for approval to process the following 2024 budget revisions:

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1. A request to move \$1,892 to Union Welfare Benefits – A00-9070-0800-0000 with \$1,494 from Clerk Contractual – A00-1410-0400-0000 and \$398 from Building Contractual – A00-1620-0400-0000, to cover employee welfare benefits.
2. A request to move \$11,909 to General Repairs Personnel – DB0-5110-0100-0000 from Out of Dept. Personnel – DB0-5142-0100-0100, to cover the payroll accrual audit adjusting entry.
3. A request to move \$3,199 to Transmission & Distribution Personnel – SW1-8340-0400-0100-0000 from Transmission & Distribution Gasoline – SW1-8340-0400-3510, to cover the payroll accrual audit adjusting entry.

Budget  
Revisions

**Morreale MOVED for approval as presented. Seconded by Waechter and Carried 4-0.**

The Finance Director asked for approval to process the following 2025 budget revisions:

1. A request to move \$1,000 to Building Equipment – A00-1620-0200-0000 from Contingency – A00-1990-0400-0000, to cover specifications on the storage building.
2. A request to move \$75 to Bank Charges – A00-9903-0000-0000 from Contingency – A00-1990-0400-0000, to cover wire transfer fees.
3. A request to move \$1,725 to Parks Equipment – B00-7110-0200-0000 from Grant Writing – B00-8095-0400-0000, to cover dog park garbage cans.
4. A request to move \$12,000 to Engineering Firm – B00-1440-0440-0000 from Grant Writing – B00-8095-0400-0000, to cover engineering expenses.

Budget  
Revisions

**Morreale MOVED for approval as presented. Seconded by Waechter and Carried 4-0.**

Legal:

Bax said recently, there was an inquiry brought to the Town relative to an ethical question. Bax reached out to the Ethics Board providing them with the documents he was provided and explained to them their responsibility under the Town Code. Bax had a conversation with the chairperson of the Ethics Board who had indicated the Board had met last week in an initial attempt to address the issue. Bax was made aware at that time, the individual who wrote the original email and the subject of the concerns was not personally interviewed. This morning, Bax wrote an additional communication to the ethics board and placed a phone call to the chairperson of the Ethics Board advising them that they would need to do a second meeting, preferably in his office, where the parties of interest would be interviewed and any questions could be asked of them so they can make sure the ethics inquiry was complete.

The Ethics Board has a very specific charge and that is to do a full investigation and report to the Town Board. So far, the Ethics Board has reviewed the documentation portion and Bax is advising

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them to take the next step and do the personal interview portion. Bax will then advise them and assist them in preparing the document that will come to the Town Board.

Broderick wanted to address something that has been on social media regarding a deceased member on the Ethics Board. DiFrancisco passed away in September of 2024 and at the Town's reorganization meeting in January, the position was filled. Bax said the members of the Ethics Board are taking this very seriously and no one is brushing this under the carpet. The Board wants to do a good job for the Town. This does not happen very often. Bax was on the Town Board for several iterations and there was never an issue that was referred to the Ethics Board. Right and wrong is relatively straight forward but the Board needs to have all the evidence and information before they provide a report to the Town.

Waechter asked why we have a Town Official that is appointed to the Ethics Board. The Town Code states there should be an elected official or town employee on the Ethics Board and that seems like a conflict of interest. Bax said he could not speak to why the Town Code was written that way. It was the way the code was drafted and a model code was probably used. It could have just as easily been left out and it wouldn't have had much difference or impact. Waechter asked if the code needed to be revisited. We're investigating a Town matter it shouldn't have a Town Official on the Board. Bax said he is not sure that is a conflict of interest. The Town Board and Ethics Board's motivation should be aligned. If that official was vested in the question, then there would be a conflict of interest with that official, and they should recuse themselves from the consideration.

The Ethics Board does not make a decision they make a recommendation to the Town Board in written form. In this circumstance, Assessor Fiutko is on the Ethics Board and he does not have any connection to the issue. The Ethics Board is taking their job very seriously. Bax told Waechter we can touch on that section of the Town Code to provide more parameters. There are better codes drafted to address these types of issues and the Town can look into that.

COUNCILMAN JACOBY – Nothing to Report.

COUNCILMAN MORREALE

Morreale presented a request from Jordan Green – 4751 Creek Road to waive the sewer charge in the amount of \$60.45 for the installation of a new pool.

Waive  
Sewer  
New Pool  
4751 Creek

**Morreale MOVED to waive the sewer fee for Jordan Green – 4751 Creek Road in the amount of \$60.45. Seconded by Waechter and carried 4-0.**

COUNCILWOMAN WAECHTER

The Recreation Department is requesting to hire Shannon Young as a seasonal hire for clerical help at \$18/hr. with hours starting on September 1, 2025.

Rec. Dept.  
Hire -  
S. Young

**Waechter MOVED to hire Shannon Young to the Recreation Department starting 9/1/25 at \$18/hr. Seconded by Morreale and carried 4-0.**



The Senior Center is requesting to hire Clara Hughes as a part-time senior aging services aid at \$16/hr. This would be an as-needed position when the center is short-staffed and will not exceed 20 hours/wk. This is not a new position and will be a fill-in position when another staff member is not in.

Senior PT  
Hire  
C. Hughes

**Waechter MOVED to hire Clara Hughes as a part-time senior aid at \$16/hr. Seconded by Jacoby and carried 4-0.**

RESIDENT STATEMENTS

Steve Newman – Model City Road

Newman is inquiring about the Ethics Board process. The Town Code does not give all the parameters regarding the process of the Ethics Board. According to the Code, it states there are supposed to be minutes accounted for during the ethics meetings. Bax said he is going to advise the Ethics Board to provide all of that documentation in their report to the Town Board.

Zagoreos Vs. Conklin 1985 is a Case Law in NYS that states if there is any conflict of interest, it needs to have full disclosure and the official should abstain from the vote with full disclosure. This law also states specifically, it's the public's perception of conflict of interest. Newman said he does not fully understand case law he is not a lawyer and the frustration for him is trying to understand the process and legalities. The past three times Newman has spoken in front of the Town Board against something, he hasn't heard anything opposing to the other side but yet the other side still gets the vote and wins. For instance, Newman brought a 42-page signature petition to the Board for everyone against the storage unit on Model City Road from everyone who was directly impacted by it and the project still passed. There was equal weight when it came to short term rentals for people for and against it. That vote carried. For President's Park, Newman has only heard the developers for it. There have been several hundred emails and several people at meetings speaking against it and it seems like it's getting pushed and it will be approved. Is it because the town is afraid of the legal ramifications from denying it and the developers pursuing a lawsuit on the Town because of our Comprehensive Plan that is in place right now regarding the zoning? Newman said he does understand the property is zoned for the apartment complex.

Bax said there are only so many tools the Town Board has and it has certain parameters within which it has to operate. Unfortunately, from the public's perspective, it may look like we're not doing anything but in reality, the Town has to work within the guidelines of the law and a private citizen has the right to do with their property what they want so long as they comply with Town and State Code. If the parties at issue can provide that information through the hearing process and they can jump through the hurdles then they're entitled to do what they want with their property regardless of the Town Board's personal position on approval or liking or disliking the project. It has to be the law we follow and not personal opinion. Bax told Newman, between the three examples raised, he's comparing apples to oranges because the Ethics Board is something completely different than Presidents Park and the project on Model City Road. It's not necessarily against or for, all three examples are going through the process and the outcome was the outcome. Newman just wants transparency and accountability.

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Newman read in the minutes that the Town's Comprehensive Plan is being sent back for review. Broderick said this has not been done yet and there will be a committee formed at the next meeting and then they'll have their first meeting with Wendell. Waechter, Broderick and Mr. Lyle volunteered to be on the committee and they're looking to get a few more members.

**Morreale MOVED to adjourn. Seconded by Waechter and Carried 4-0. 7:06 P.M.**

Transcribed and  
Respectfully submitted by:

Tamara Burns  
Deputy Town Clerk