

July 28, 2025

Regular Town Board Meeting

6:00 PM

**PRESENT:** Supervisor S. Broderick; Councilmembers R. Morreale, J. Jacoby, J. Myers & S. Waechter; Dep. Sup. W. Conrad; Police Chief M. Salada; Finance Director J. Agnello; Atty. A. Bax; Sr. Coordinator M. Olick; Rec. Director T. Smith; Eng. B. Lannon; Hwy Sup. M. Zahno; Water Crew Ch. J. Dell; WPCC Ch. Op. J. Ritter; 1 Press; 19 Residents & Deputy Clerk T. Burns

**ZOOM:** 1 Press

**EXCUSED:** Bldg. Insp. T. Masters

Supervisor called the meeting to order, followed by the Pledge of Allegiance and a moment of silent reflection keeping the Williams, Sansivero and Quarantillo families in your prayers.

*AGENDA AMENDMENTS:* None

Agenda

**Waechter MOVED to approve the agenda, as presented. Seconded by Myers and carried 5-0.**

*PRIVILEGE OF THE FLOOR*

Hanna Davis-Townline Road

Davis asked if there were any updates regarding the Pumpkin Farm operating next to her house on Townline Road. Bax said he would speak with Davis after the meeting.

*2024 AUDIT PRESENTATION – DRESCHER & MALECKI*

Nicholas Patronik and Erica Handley are with Drescher & Malecki, the external auditors for the Town of Lewiston. Patronik said, their responsibility as the Town's external auditors is to plan a performing audit to see if the Town's financial statements can be relied upon and are fairly stated, specifically by the Town Board, any department heads or by anyone looking at the financial statements to make decisions. The financial statements are owned by the Town. The Town, on an annual basis will be imputing and entering data and then Drescher & Malecki audit that data and compile it into financial statement format that's easy to read.

Patronik did not come across any concerns and is happy to report that they're going to be reporting an unmodified audit opinion which is the best you can do from an audit standpoint. That's a clean opinion which has been consistent with the last several years for the Town. There have been no changes in any significant accounting policies in the Town's financial statements. From an accounting estimate standpoint, the Town has a couple long term items that would include post-employment benefits related to employees as well as the state retirement system. Those are included within fund statements like the general fund or the water fund, those are long term items that would be accounted for on the government wide statements. Patronik said it is important to know that Drescher & Malecki are independent from the Town and they sign disclosure forms to be sure there's no bias toward the Town or any employees. This was another clean audit year thanks to the help from Agnello and her staff. Agnello's knowledge of the Town made the audit smooth and efficient and easy for Drescher & Malecki to come in and look at the records.

July 28, 2025

General Fund – Revenues came in about \$200,000 less than expenditures this year. A negative change in fund balance. Main revenues in the General Fund are tipping fees from Modern Disposal which came in about 1.8 million dollars. Property taxes came in just under \$500,000. There was an uptick in interest earnings as well, almost triple from 2023 which will be seen across most funds for 2024. On the expenditure side of things, general government support was the main driver in expenditures, about 1.4 million dollars, and 1.1 million dollars in culture and recreation expenditures. There's a large increase in recreation expenditures and there's an increase in salaries and employee benefits across the board. This is why the expenditures outpace the revenues in the General Fund in 2024. December 31, 2024, the total balance in the General Fund was about \$2,110,760 and of that, about \$59,000 is considered non-spendable Fund Balance which is money that is for pre-paid expenditures. About \$786,000 was earmarked for certain purposes. The largest items would be \$200,000 for future property assessment fees and \$500,000 earmarked from the 2025 budget. The available fund balance in the General Fund was about 1.1 million dollars at December 31, 2024, about 32% of total expenditures in the general fund on an annual basis.

Town Outside Village Fund – This year, there was a negative decrease in fund balance of about \$100,000. There was an anticipated loss of about \$171,000 in the 2024 budget so this fund did perform better than expected. Within this fund, sales tax was about 1.7 million that came in which was consistent with 2023. Interest earnings went up again and mortgage tax was consistent with the prior year as well. However, there was an uptick in public safety expenditures, salaries and employee benefits across the board which is why expenditures outpace revenues. The fund was about 2.1 million dollars at year end. Of those 2.1 million dollars, \$464,000 was earmarked for equipment or was appropriated in the 2025 budget. That leaves about 1.6 million that is available in the Town Outside Village Fund.

Highway Fund – There was about \$24,000 positive increase in fund balance in the Highway Fund. The main drive of revenue is from sales tax which was about 3.2 million dollars, a nice uptick from 2023 and the same with interest earnings. Real property taxes were about \$200,000. Expenditure fees were pretty consistent across the board. There was a regular increase in state retirement expenses, employee benefits and contractual expenses. Fund balance was about 1.9 million dollars at December 31, 2024. \$530,000 is earmarked for equipment, future purchases or in the 2025 budget which leaves about 1.2 million dollars available within the Highway Fund.

Water District Fund – There was a large increase in fund balance of almost \$400,000. Total revenues came in about 3 million dollars and total expenditures were about 2.6 million dollars which was pretty consistent with 2023. On the revenue side, there was uptick in water sales and interest doubled from 2023. The expense side was fairly consistent and there were savings in the transmission and equipment contractual. The fund balance was about 2.5 million dollars on December 31, 2024. 1 million dollars was earmarked for future capital improvements and the remaining 1.4 million is available for use. A little less than half of the Water District Fund balance is earmarked for future capital improvements and repairs.

Sewer District Fund – There was a negative decrease in fund balance of about \$500,000. Expenditures increased and there were some large purchases within the fund that were planned within the 2024 budget. Salaries and employee benefits increased and there was a large transfer out of the sewer fund into the Capital Projects Fund to help fund the Main Panel Project. There was about 3 million dollars in the Sewer Fund Balance at December 31, 2024, a little less than 1 million

July 28, 2025

dollars is earmarked for capital improvements or appropriated in the 2025 budget and that leaves about 2.1 million dollars available within the Sewer Fund Balance.

Patronik said he and Handley are always available for questions and thanks Agnello for helping them get through the audit. They're close to finalizing everything, just a couple formalities and they should be able to issue the Towns financial statements.

*DEPARTMENT HEAD STATEMENTS*

Crew Ch. J. Dell

Dell said in 2024 the Water Department received a bid for a dump truck of \$66,452.25. \$64,822 was carried over into the 2025 budget for the truck. The Water Department needs an additional \$1,630.25 in funds out of the 2025 budget. The bid was already approved. Agnello said the Water Department saved money on a water meter pit project so the funds will be available in the equipment line.

Water Dept  
Dump Truck  
Add. Funds

**Morreale MOVED to approve the Water Department to spend an additional \$1,630.25 out of the 2025 budget for a dump truck. Seconded by Jacoby and Carried 5-0.**

WPCC Ch. Op. J. Ritter

Ritter said it has come to his attention that there is a lot of misinformation and speculation about the Sewage Treatment Plant on social media. That being the case, Ritter said he would love to answer some of the questions and concerns and also show the plant processes. He would like to announce an open house at the Waste Water Treatment Plant, 501 Pletcher Road, on Saturday August 23<sup>rd</sup> from 8am-2pm.

Sr. Coordinator M. Olick

Tomorrow, the Senior Center will have an emergency preparedness training where the Homeland Security will come in and talk about emergency preparedness and provide everyone with a backpack with emergency supplies. The produce truck is at the Senior Center every Wednesday from 12:30-1:30 on the side parking lot on Stella Niagara side.

Rec. Director T. Smith

Smith said they're winding down their baseball season which was very successful. Summer camps are on their fourth week and are going great, yoga is continuing through August, and they're switching over to Mondays at the Senior Center. In August and September there will be a bocce and cornhole league every Thursday. It's all free and you can register online. Smith said the Highway Department did a great job redoing the bocce courts behind the Senior Center. Broderick said there are two bocce courts behind the Senior Center that he doesn't know if anyone knows are there, they haven't been used in years. If anybody enjoys bocce or wants to practice, they're available and open to the public.

*APPROVAL OF MINUTES*

Minutes

**Morreale MOVED to approve the minutes from the 6/23 RTBM. Seconded by Myers and carried 5-0.**

*ABSTRACT*

Abstract

**Waechter MOVED to approve Regular Abstract of Claims Numbered 25-01652 thru 25-01879 and recommended payment in the amount of \$669,058.43 with a Post Audit in the amount of \$10,851.27. Seconded by Jacoby and carried 5-0.**

**Waechter MOVED to approve Regular Abstract of Claims Numbered 25-01880 thru 25-01973 and recommended payment in the amount of \$443,769.58 with a Post Audit in the amount of \$4,537.95. Seconded by Jacoby and carried 5-0.**

*OLD/PENDING BUSINESS* - None

*NEW BUSINESS* - None

**SUPERVISOR BRODERICK**

There is a shed behind Town Hall that is completely inadequate. There are things in the basement at Town Hall that we need to get out of the basement. Broderick worked with Zimmerman and approved a \$1,000 recommendation for Parco Building Systems to supply specifications to put out to bid a 20' x 24' x 10' post frame building to house all lawn equipment at Town Hall.

Post Frame  
Building  
Town Hall

**Morreale MOVED for approval to go out to bid for a post frame building at Town Hall. Seconded by Myers and carried 5-0.**

Broderick said the Chamber of Commerce building in the Village had snow blowing in under the door in the winter, the windows and roof are inadequate and he spoke with the director and suggested possibly using the Town Energy Funds which we get for the sale of 6.5 MW on the open market. At last week's Village Board meeting, they approved moving forward with the replacements. Broderick would like to assist. The Village will have to have their Historical Preservation Board look at everything and approve the replacements. Broderick said once there is a scope of work and everything is approved, we will revisit.

Broderick said Tom Seaman is the Town's attorney for Planning and Zoning and has also been helping with union contract negotiations which is outside the realm of his contract for Planning and Zoning. There are upcoming negotiations with the Town's Police Department and Seaman advised Broderick that he is no longer able to assist in union negotiations due to him being overwhelmed with business. Seaman recommended attorney Heather Giambra who specializes in collective bargaining and labor and employment advice. Giambra's hourly rate is \$285/hr. which is exactly what Seaman was charging. The Town is not adding anything to our legal representation, it's just replacing Seaman with Giambra.

July 28, 2025

Atty Giambra  
Hire - Union  
Negotiations

**Myers MOVED to hire Heather Giambra for Union negotiations at \$285/hr. Seconded by Morreale and carried 5-0.**

Waechter asked how long Giambra has been working in this field. Broderick said she has been doing this for a while and is highly recommended by Tom Seaman but did not have her resume in front of him.

On June 24, 2025, Broderick received a letter from the Schubert's of Langdon Road. Since then, Broderick received several other letters from the same area. "Dear members of the Town Council, I hope this letter finds you well and I'm writing as a concerned resident of Langdon Road, Ransomville, to formally request a review in reduction of the posted speed limit on our street. It has become increasingly apparent that the current speed limit of 55mph poses a safety risk to residents, pedestrians and drivers in the area. The growing number of children, residing pets, elderly residents crossing the road and increase in foot and bicycle traffic, the high-speed limit has created a dangerous environment. Additionally, it is worth noting that several nearby streets have lower posted speed limits despite experiencing similar or lower levels of traffic and pedestrian activity. This inconsistency can be confusing for drivers and contributes to higher speed being maintained inappropriately throughout our area. There have been several near-misses and reports of vehicles traveling well above the posted speed limit. While enforcement is important, the lower speed limit will also serve as a preventative measure urging safer driving behavior and better protecting those who use the road daily. I kindly request that the Town Council consider reducing the speed limit to 35mph, along with many of my neighbors who would be happy to support this initiative in any way they can. Thank you for your attention to this matter and for your continued service to your community. I look forward to your response."

Broderick reached out to Schubert and explained the Town cannot control speed limits on the Town roadways. The Village can, but the Town cannot. The process is a petition, which is all of the letters received and the Town Board making a resolution for the DOT to do a traffic study to consider reducing the speed. It would be the DOT's determination if they did, to what the speed limit would be reduced to.

Traffic Study  
Langdon Rd

**Wachter MOVED to request the NYS D.O.T to do a traffic study in the interest of reducing the speed limit on Langdon Road. Seconded by Jacoby and carried 5-0.**

Waechter said she had a resident reach out to her regarding striping and a "children at play" sign on Langdon Road. Broderick introduced Schubert to Highway Superintendent Zahno and said to talk with him after the meeting.

Legal:

The Town of Lewiston Police Department is in front of Lewiston-Porter School. Lewiston-Porter does not want the building anymore and is willing to give it to the Town of Lewiston. There are certain school law requirements that the building has to have compliances which the Town doesn't require. It would be a heavy expense for the school to upgrade the facility but the Town will not have to do that. Chief Previte and Chief Salada are in favor of this.

NOW, THEREFORE, BE IT RESOLVED THAT:

July 28, 2025

The President of the Board is hereby authorized and directed to execute the Deed and associated transfer documents for the Parcel, as well as the Intermunicipal Transfer and Shared Services Agreement, to effectuate this transaction. This resolution shall take effect immediately.

Broderick said there is a Legal Description – “Lands to be Conveyed by Lewiston-Porter Central School District” available for review and the Intermunicipal Transfer and Shared Services Agreement.

**Jacoby MOVED to approve the Intermunicipal Transfer and Shared Services Agreement. Seconded by Waechter and carried 5-0.**

**Morreale MOVED for the Supervisor to sign said agreement. Seconded by Jacoby and carried 5-0.**

Bax asked for a resolution authorizing the supervisor to sign any real estate documents necessary to complete this transaction.

**Morreale MOVED to approve the Supervisor to sign any real estate documents pertaining to “Lands to be Conveyed by Lewiston-Porter”. Seconded by Myers and carried 5-0.**

Last year, the Town recalled their drug and alcohol testing for non-CDL licenses. Through the union and Tom Seaman, as he was doing negotiations, the Town came up with an MOU for the employees with CDL driver’s licenses for drug and alcohol testing.

Memorandum of Agreement Between the Town of Lewiston and Teamsters Local 264.

The Town of Lewiston (hereinafter “Town”) and Teamsters Local 264 (hereinafter “Union”) hereby enter into this Agreement this day of July 28, 2025.

In full settlement of PERB Case No. U-39286 concerning the Town’s implementation of a drug and alcohol abuse policy, the parties agree to as follows:

1. The Town shall withdrawal the at-issue drug and alcohol abuse policy.
2. The parties agree to follow the federal law, rules and regulations as are applicable to drug and alcohol testing for bargaining unit employees with commercial driver’s licenses.
3. In consideration of the foregoing, the Union agrees to withdraw the above-reference improper practice charge.

**Morreale MOVED to approve the Memorandum of Agreement Between the Town of Lewiston and Teamsters Local 264. Seconded by Jacoby and carried 5-0.**

**Waechter MOVED to authorize the Supervisor to sign the presented Memorandum. Seconded by Myers and carried 5-0.**

At the beginning of July, the Ethics Board received an email from a resident concerned about a possible conflict of interest with the Town’s Planning Board. The complaint was, Bill Burg whom

Lands to Be  
Conveyed  
Lew-Port CSD

MOU - TOL  
& Teamsters  
Local 264  
Drug &  
Alcohol

July 28, 2025

is the head of the Planning Board, owns a building material supply company. The possible conflict was, he could possibly profit from Presidents Park Development. Broderick reached out to Burg and he responded.

To the Lewiston Town Board,

I'm proud of the work we do on the Planning Board. Here is my statement on the ethics question regarding Presidents Park. I have not solicited any business on any project that has come before the board. especially one as controversial as Presidents Park. I have not done business with 5/4 Development, I have made no attempt to do business or supply products for Presidents Park, I will not pursue business with Presidents Park, I will not accept an invitation to bid Presidents Park, I have no financial interest or benefit from Presidents Park. Therefore, there is no violation of the ethical standard I promised to uphold.

Sincerely,  
William C. Burg

Broderick said he has known Burg for a very long time and he is an upstanding individual and Broderick believes what is stated in his letter. Broderick also said, we have an independent board that we can utilize to look into this situation.

Possible  
Conflict  
Planning  
Board -  
Refer to  
Ethics Board

**Jacoby MOVED to have the possible conflict of interest examined by the Ethics Board.  
Seconded by Morreale and carried 5-0.**

Jacoby said this is a good course of action. If the Board makes a decision independent of the Ethics Board, it makes it look bad.

Engineering:

Lannon submitted a letter to the Board to recommend dedication of phase 5 of Oak Run – Eastwood Circle. The water line was installed, pressure tested and disinfected and approved by the Niagara County Health Department. There does need to be a minor modification of the location of the water service on lot 49. Lannon spoke with Masters and he said this is very minor and can be handled through the Building Department. The sanitary sewer was installed tested and approved. The I & I offset fee of \$3,400 has been paid by the developer. The storm sewer infrastructure is installed. The maintenance bond and road dedication deed have been submitted to Bax which he reviewed and approved. A final site walk was conducted. Each of the department heads have sent an email saying they are comfortable with the infrastructure that has been installed. At the time Lannon wrote the letter, the street sign and stop sign were not installed, but Underground was called and cleared and the street sign and stop sign are now installed. The developer has submitted both electronic and hard copies of the as-built drawings of the infrastructure that was installed. They also submitted the certification of release of liens. GHD has submitted to the Town 6 notebooks of all project documentation and 6 thumb drives of all the construction photos which were 700 photos. The project is good to go and Lannon recommends the Board consider dedication of phase 5 of Oak Run Estates.

July 28, 2025

Phase 5-  
Oak Run  
Estates

**Jacoby MOVED to accept the dedication of Eastwood Circle, Oak Run Estates Phase 5. Seconded by Jacoby and carried 5-0.**

Morreale asked if this is the last section of this subdivision. Lannon said this is the 5<sup>th</sup> and final phase. In connection with Oak Run Phase 5, this is a cul-de-sac which by Town practice is eligible for a street light.

Street Light  
Eastwood Cir

**Morreale MOVED for Lannon to initiate the process for National Grid to install a street light at the cul-de-sac in Eastwood Circle. Seconded by Waechter and carried 5-0.**

Finance:

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

1. A request to move \$5 to Assessors Equipment – A00-1355-0200-0000 from Assessor Contractual – A00-1355-0400-0000, to cover the purchase of a printer/scanner cable.
2. A request to move \$1,000 to Building Department – A00-1620-0200-000 from Contingency – A00-1990-0400-0000, to cover the engineered blueprints for a post frame building.
3. A request to move \$500 to Parks Equipment – B00-7110-0200-0000 from B-Fund – B00-1000-0599-0000, to cover the purchase of pole brackets.

Budget  
Revisions

**Morreale MOVED for approval as presented. Seconded by Myers and Carried 5-0.**

COUNCILMAN JACOBY

Jacoby read a request to appoint Maria Battista as Police Captain, provisionally, subject to the Civil Service test in October effective July 28 at \$39.55/hr.

Police  
Captain  
Appointment  
-Battista

**Jacoby MOVED to appoint Maria Battista as Police Captain, provisionally, effective July 28, 2025 at 39.55/hr. Seconded by Morreale and carried 5-0.**

Jacoby read a request to hire Joshua Wisto to fill the full-time vacancy effective July 28, 2025 at the contract rate.

Full Time  
Police Hire  
- Wisto

**Jacoby MOVED to hire Joshua Wisto full-time effective July 28, 2025 at contract rate. Seconded by Morreale and carried 5-0.**

COUNCILMAN MORREALE

The Planning Board met in regular session on July 17, 2025, reviewed a one lot split request from Thomas Price, 4598 Porter Center Road, SBL 89.00-131. A variance was granted for area and



July 28, 2025

dimensional standards from the required 125' to the 100' frontage from the Zoning Board on July 10, 2025. The Planning Board recommends a negative declaration with regard to SEQRA.

Neg. Dec.  
4598 Porter  
Center

**Morreale MOVED to approve the negative declaration in regard to SEQRA. Seconded by Jacoby and carried 5-0.**

The Board classified this as a minor to be treated as a minor. The Planning Board recommends approval of the one lot split as presented.

One Lot Split  
4598 Porter  
Center Rd

**Morreale MOVED to approve the one lot split, as presented. Seconded by Myers and carried 5-0.**

The Planning Board met in regular session on July 17, 2025, reviewed a one lot split request from Andrew and Michelle Ellis, Upper Mountain Road, SBL 104.00-2-65.111. The Planning Board recommends a negative declaration with regard to SEQRA.

Neg. Dec.  
Upper Mtn

**Morreale MOVED to approve the negative declaration in regard to SEQRA. Seconded by Waechter and carried 5-0.**

The Board classified this as a minor to be treated as a minor. The Planning Board recommends approval of the one lot split as presented.

One Lot Split  
Upper Mtn

**Morreale MOVED to approve the one lot split, as presented. Seconded by Myers and carried 5-0.**

The Planning Board met in regular session on June 26, 2025, reviewed a one lot split request from Tod Craggs, 4157 Dickersonville Road, SBL 76.00-1-21. The Planning Board recommends a negative declaration with regard to SEQRA.

Neg. Dec.  
4157  
Dickersonville

**Morreale MOVED to approve the negative declaration in regard to SEQRA. Seconded by Jacoby and carried 5-0.**

The Board classified this as a minor to be treated as a minor. The Planning Board recommends approval of the one lot split as presented.

One lot Split  
4157  
Dickersonville

**Morreale MOVED to approve the one lot split, as presented. Seconded by Myers and carried 5-0.**

The Planning Board met in regular session on June 26, 2025, reviewed a Site Plan related to a Planned Unit Development (PUD) change for 5300 Military Road Mount Saint Mary's Hospital Catholic Health campus, SBL 115.00-1-2.11. The Planning Board recommends a negative declaration with regard to SEQRA.

Neg. Dec.  
5300 Military

**Morreale MOVED to approve the negative declaration in regard to SEQRA. Seconded by Waechter and carried 5-0.**

The Planning Board recommends approval of the PUD change as presented.

July 28, 2025

PUD  
5300 Military

**Morreale MOVED to approve the PUD change as presented. Seconded by Jacoby and carried 5-0.**

Waechter said, for clarification of what the proposed change is going to be, because it is not stated in the letter, this change will be an electronic sign posted at the entrance off of Military Road.

Morreale presented a request from Vincent Jowdy of Briarwood Lane for sewer relief for the installation of a new pool liner. The pool was 13,000 gallons and the sewer discount is \$53.83.

Sewer Relief  
Pool  
Briarwood Ln

**Morreale MOVED to waive the sewer fee in the amount of \$53.83. Seconded by Myers and carried 5-0.**

Morreale presented a request from David Pacana of Fuller Place for sewer relief for the installation of a new pool liner. The pool was 23,000 gallons and the sewer discount is \$95.23.

Sewer Relief  
Pool  
Fuller Pl

**Morreale MOVED to waive the sewer fee in the amount of \$95.23. Seconded by Myers and carried 5-0.**

Morreale presented a request from Nico Marais of East Eddy Drive for sewer relief for the installation of a new pool liner. The pool was 23,358 gallons and the sewer discount is \$96.72.

Sewer Relief  
Pool  
E. Eddy Dr

**Morreale MOVED to waive the sewer fee in the amount of \$96.72. Seconded by Myers and carried 5-0.**

Morreale presented a request from Elaine Bright of Swann Road for sewer relief for the repair of a pool. The pool was 21,000 gallons and the sewer discount is \$86.93.

Sewer Relief  
Pool  
Swann Rd

**Morreale MOVED to waive the sewer fee in the amount of \$86.93. Seconded by Waechter and carried 5-0.**

Morreale presented a request from Adam Kinney of Miller Road for sewer relief for the installation of a new pool liner. The pool was 12,481 gallons and the sewer discount is \$23.57.

Sewer Relief  
Pool  
Miller Rd

**Morreale MOVED to waive the sewer fee in the amount of \$23.57. Seconded by Myers and carried 5-0.**

Morreale presented a request from Laura Scarfone of Sandlewood Drive for sewer relief for the installation of a new pool. The pool was 16,000 gallons and the sewer discount is \$66.28.

Sewer Relief  
Pool  
Sandlewood

**Morreale MOVED to waive the sewer fee in the amount of \$66.28. Seconded by Waechter and carried 5-0.**

COUNCILMAN MYERS – Nothing to report

COUNCILWOMAN WAECHTER –

July 28, 2025

Waechter said she attended the Sanborn Farm Museum on Saturday; it was very interesting so she is glad she attended. The EPO at Academy Park was fabulous and she had a great night. Most of all, Waechter would like to thank Agnello for doing what she does. The Town received a great report and she appreciates Agnello.

RESIDENT STATEMENTS

Clayton Miller – Creek Road

Miller said, for full transparency, he is the one who submitted the complaint regarding a possible conflict of interest with the Planning Board. Miller hopes that someone will contact him with the results from the Ethics Board and he will be more than happy to sign an affidavit as to what he has heard. Miller said he appreciates everything in terms of Burg being a good guy and Broderick knowing him for a long time. That is not the law in New York State. The law is a perceived conflict of interest. It has nothing to do with Burg as a person. The Town's Chairman of the Planning Board owns a building products company. It's very respective of what he wants to do, and as far as not having done business in the past, Miller said he's heard differently on that. The fact that this person is allowed to sit in on a Planning Board meeting shouldn't happen. Miller appreciates the review, but also, how come we're at this point? Somebody should have said, I own a building products company and I'm the Chairman of the Planning Board; I should sit this one out and that didn't happen. "I appreciate you guys looking into it I appreciate the steps being taken but I just want to remind everyone, this is not a person issue, it is a perceived conflict of interest. That is the law in New York State".

Steve Newman

Newman wants to know if it's the Board's opinion of whether or not it's a conflict of interest, or is it if the public perceives a conflict of interest? Newman said the Town Code reads, it's the public's perception, not the Board members. Bax said he can understand where the concept of a perceived conflict of interest and would suggest that any circumstance is going to be taken on an individual basis, and because this individual did not have any prior dealings with the developer, his opinion is, there would not be a conflict because of the fact that he did not have any prior exposure or dealings with this developer. That would mean no contractor would be able to be on a Planning Board because they were in the construction industry. Anybody with experience in dealing with the subject wouldn't be able to serve on a Planning Board because of a perceived, possible profit motive. Newman said, that is not how it's stated in the Town Code. Bax said you have to go deeper and look into the Case Law. This is why the Town has an Ethics Board, to look into things like this. Certainly, there are ethics rulings throughout the state on exactly the same issue. Newman asked if there was an Ethics Board appointed in the Town of Lewiston. Broderick said yes. Miller sent his letter to the Ethics Board who forwarded it to him. Normally, the process is, the Town Board refers an issue to the Ethics Board and that's what the Board did here today. It's getting to where Miller wanted it to go, the Board just had to follow the right process to get there. Newman said he appreciates everything.

In the future, Newman recommends the Board utilizes their recusal of privilege and asks the Board to recuse themselves from a vote if it's thought there's a conflict of interest. "It is not the Boards perception of conflict. It's the publics. That's what the Town Code states". Bax said he wants to

July 28, 2025

elaborate on an example to provide the circumstances here. Had there been someone shopping from 5/4 Development at this retail place of business and then time for Burg to make a determination on the subject. That is exactly what the code is referencing. A circumstance whereby, someone can vote and be independent on the subject. Just because someone comes in and shops, and there is no further dealing with them, nor do they stand to make anything off of this in the future, "I would not accept it because of the appearance of the propriety". That stands out more drastically than the circumstance at hand where there has been no contact in the past and the only thing that links the two is the fact that ones a construction project and the other one is a construction manager. Newman said "we're paying attention".

Jacoby said the Board sees a lot of people coming in with complaints and problems with the Town and Newman and Miller represent the way it should be done. They did their homework and presented the facts legibly and clearly and some of the things explained made it a little clearer for Jacoby personally, he has looked at this a lot. He wants to compliment everyone here tonight. The Board wants to do what's right by everyone.

**Morreale MOVED to adjourn. Seconded by Myers and Carried 5-0. 6:52 P.M.**

Transcribed and  
Respectfully submitted by:

Tamara Burns  
Deputy Town Clerk