

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Geiben, Jacoby and Morreale; Finance Director Agnello; Attorney T. Seaman; Attorney B Seaman; Engineer Lannon; Building Inspector Masters, Highway Superintendent Trane; WWTP Chief Opt. Ritter; Water Foreman Zahno; Recreation Director Dashineau; Police Captain Josh Cain; 1 Press; 3 Residents and Clerk Donna Garfinkel

EXCUSED: Councilman Bax

Supervisor opened the Public Hearing with the Pledge to the Flag followed by a moment of silent reflection.

Clerk read Public Hearing Notice into the record.

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston, Niagara County, NY, on the 25th day of April, 2019 commencing at 6 p.m. at the Town Hall, 1375 Ridge Road, Lewiston, NY, on the repeal of Section 360-209 of the Code of the Town of Lewiston, titled “Unsafe buildings” and the amendment of the Code of the Town of Lewiston to include a new chapter, “Chapter 325: Unsafe Buildings”

Said Chapter would establish a new procedure by which the Town of Lewiston may determine a structure to be unsafe, provide notice of such determination, and provide a timeframe by which the structure will be made safe or be subject to removal. More specifically:

Pursuant to § 325-3, the Building Inspector would be authorized to perform an inspection and create a report when he/she learns that a building may be unsafe. Said report would be delivered to the Town Board and would provide a detailed description of the pertinent information regarding the unsafe characteristics of the structure.

Pursuant to § 325-4, the Town Board would consider the report and may, by resolution, order the structure to be repaired or removed, and provide for service of Order with a detailed notice of said determination on the property owner(s) or interested parties in a manner detailed in § 325-6.

The contents of said Notice and Order are detailed in § 325-5 and include: a description of the property, statement of particulars in which the building is unsafe, an Order requiring the building to be made safe, a statement that securing or removal of such building must begin within 30 days and be completed within 60 days, the setting of a time for hearing on the matter before the Town Board, a statement that a failure to comply would enable the Town Board to authorize the repair or removal of said building and charge the cost of same against the land on which the structure is located.

In the event of an emergency and imminent danger § 325-11 allows the Town Supervisor to authorize the immediate removal or repair of said structure. Where it appears to the Building Inspector that immediate action is necessary to protect the public, pursuant to § 325-12, he/she may cause the securing of said structure in a minimally designed manner that protects the public.

§ 325-13 provides that a person refusing or neglecting to comply with this Chapter would be guilty of a violation and subject to a fine of not more than \$250 and imprisonment of not more than 15 days.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours. At such Public Hearing, all persons interested, who wish to be heard, will be heard.

Dated: March 25, 2019

Supervisor invited residents to speak. No one wished to speak.

Morreale MOVED to close the Public Hearing, Seconded by Jacoby and Carried 4 – 0. (6:05 pm)

REGULAR TOWN BOARD MEETING

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Geiben, Jacoby and Morreale; Finance Director Agnello; Attorney T. Seaman; Attorney B Seaman; Engineer Lannon; Building Inspector Masters, Highway Superintendent Trane; WWTP Chief Opt. Ritter; Water Foreman Zahno; Recreation Director Dashineau; Police Captain Josh Cain; 1 Press; 3 Residents and Clerk Donna Garfinkel

EXCUSED: Councilman Bax

AGENDA APPROVAL

Additions: Broderick – Sanborn Sewer Change Order; Jacoby – Lattice Tower & SEQRA; Geiben – Niagara University lease agreement

Geiben MOVED to approve the Agenda as amended, Seconded by Jacoby and Carried 4 – 0.

APPROVAL OF LOCAL LAW # 2019 - 2

Masters said there are unsafe structures in the Town. The Attorneys wanted to address the possibility of any interested party knowing the structure will be taken down, and amending the Code will do this.

Broderick MOVED to approve Local Law #2019-2

Roll Call:

Councilman Geiben – Yes
Councilman Jacoby – Yes
Councilman Morreale – Yes
Supervisor Broderick – Yes

Motion Carried 4 – 0.

RESIDENTS STATEMENTS – No one wished to speak

QUESTION / ANSWER WITH USDA EMPLOYEES – EUROPEAN CHERRY FRUIT FLY

Joshua Gainsworth – Officer with USDA, present to answer questions Board members may have.

Morreale spoke to Gainsworth prior to the meeting. They are required to stay at least 25 feet away from waterways while spraying.

Another concern is bees. There are two beekeepers on the Board. This will be applied in the Fall, when bee activity is at a minimum. Gainsworth said it will not be applied to any host plant that has blooms.

Trained USDA members will apply the insecticide. It is diluted, 1½ ounces to 40 gallons water. Gainsworth said officials stay on site until all the water is absorbed.

Jacoby asked if this is the same material as sprayed last year. Gainsworth said yes. It is applied based on the weather, and only applied within 200-meters of a positive find. It is referred to as ground-drenching by using droplets.

Geiben MOVED to give permission for the USDA to set up trapping and spraying of the insecticide, and authorize the Supervisor to sign, Seconded by Morreale and Carried 4 – 0.

DEPARTMENT HEAD STATEMENTS

Clerk Garfinkel asks the Board to accept Auctions International bid of \$180.00 for the “Happy Holidays” Sign.

Jacoby MOVED to accept \$180 for Town Holiday Sign, Seconded by Geiben and Carried 4 – 0.

Engineer Lannon updated the Board on the Outfall Building. The report has been received. Lannon will review and report back at the May meeting.

WWTP Chief Opt. Ritter informed the Board the Plant had its DEC inspection. It should result in a good grade.

The Sanborn Farm Museum sewer hook-up is complete.

Water Foreman Zahno – The Town Water Dept. received a grant towards a new pick-up truck and fire hydrants. Zahno received bids from NYS Office of General Services. Zahno requests moving forward with accepting the lowest bid from Van Bortel Ford, Inc. in the amount of \$26,612.92.

Geiben MOVED to accept the bid, through NYS Office of General Services, from Van Bortel Ford, Inc. in the amount of \$26,612.92 for a 2019 Ford F-150 XLT R/C, Seconded by Jacoby and Carried 4 – 0.

Highway Superintendent Trane – Submitted the 2019 - 284 Agreement to Spend Funds for Permanent Improvements, along with the street list, for a total of \$486,202, for approval.

Crack Patch cost is \$46,620.00 Streets are as follows:

Riverwalk Drive, Riverwalk Drive South, Rivermist Court, Thornwood Drive, Autumn Lane, Stacey Court, Raymond Drive (Between Sara & Lauren Court), Powell Lane, Michelle Court, Mary Lane, Mountain View Drive (West Rt. 104), Mountain View Drive (East Rt. 104 to Country Club Trail), Stone Driveway, Mountain View Drive (Forest to Cul-de-sac), Woodland Drive, Forest Road, Hillside Drive, Orchard Drive, Meadow Road, Cliff Street, Sullivan Court, Kline Road, Stoltz Road, Bridgeman Road, Washington Drive, Jefferson's Way, Madison Avenue, Creek Patch, Bronson Drive, Dana Drive, The Circle Drive, Escarpment Drive, Elliott Drive, (The Circle to Callan), James Drive, Marywood Drive, Chicora, (Rt. 18F to N 5th Street), Aberdeen Road, Kenwood Drive, Tryon Drive, Harper Drive

Micro Pave cost is \$241,902.00. Streets are as follows:

Riverwalk Drive, Riverwalk Drive South, Rivermist Court, Thornwood Drive, Autumn Lane, Stacey Court, Raymond Drive (Between Sara & Lauren Court), Powell Lane, Michelle Court, Mary Lane, Mountain View Drive (West Rt. 104), Mountain View Drive (East Rt. 104 to Country Club Trail), Stone Driveway, Mountain View Drive (Forest to Cul-de-sac), Woodland Drive, Forest Road, Hillside Drive, Orchard Drive, Meadow Road, Cliff Street, Sullivan Court, Kline Road, Stoltz Road, Bridgeman Road

Asphalt Paving cost is \$244,300.00. Streets are as follows:

Raymond Drive, Curtis Court to Sara Court, NYS Rt. 18 to Curtis Court, Moore Road, Mountain View Drive, Country Club Driveway, Woodland Drive, Dutton Drive, Apple Drive, Dutton Drive to Dead End, Barton Drive, Fort Gray Drive, Lewiston Road, Dead End to NYS Rt. 104

Geiben MOVED approval of the 2019 – 284 Agreement to Spend Funds for Permanent Improvements, pending Attorney approval, Seconded by Morreale and Carried 4 – 0.

Recreation Director Dashineau is requesting approval of two returning seasonal employees.

Morreale MOVED approval of Webber, Bradley–Parks Laborer @ \$11.75/hour and Perreault, Brendan–Recreation Leader @ \$12.50/hour, Seconded by Geiben and Carried 4 – 0.

Dashineau distributed an update on the Michelle Court section of the Lewistowne Greenspace Project. The ground is dry enough to get to the first section. The second section is still proceeding, and is almost complete. The existing wood, under 4-inches in diameter, will be chipped and used to fill in any low spots.

There is a natural gully, which is creeping up into the neighborhood. The plan is to remove all wood and decipher how to get the water to flow away from the property lines and into the greenspace.

Dashineau is requesting the purchase of a wood chipper. The original plan was to use the Highway Dept. chipper, but due to the size of the project and the availability of the wood chipper, that won't work. This could be shared with the Highway Dept. Board to discuss at the May Work Session.

Geiben suggested notifying residents of the Town's intentions. Dashineau would like to wait a week or two to see the progress and give another update before notifying them.

APPROVAL OF MEETING MINUTES

Town Board Work Session – 4/8/2019 - **Geiben MOVED to approve Work Session minutes of April 8, 2019, Seconded by Morreale and Carried 4 – 0.**

AUDIT PAYMENT - Councilman Geiben

Geiben MOVED to approve the Regular Abstract of claims numbered 921 to 1057, and recommend payment in the amount of \$122,458.32, plus a Post-Audit of \$19,507.07, Seconded by Jacoby and Carried 4 – 0 .

OLD BUSINESS

Riverfront Park – Waiting on results of additional testing

Maintenance Bond – Legacy Drive sidewalks – LMK Development has requested to reduce their bond relative to the completion of the sidewalks. It has been discussed with Lannon. It was accepted that the bond be reduced to \$8,000. T. Seaman drafted an agreement and distributed to the Board. The Board needs to approve and authorize Broderick to sign.

Jacoby MOVED to approve the Amendment of March 13, 2014 Letter Agreement between Town of Lewiston and LMK Development, LLC, Seconded by Morreale and Carried 4 – 0.

PENDING - Boards & Commission appointments - Senior Advisory (2019) – nothing to report

NEW BUSINESS - Residents / Public Correspondence – None

SUPERVISOR BRODERICK

Legal – Nothing to address

Engineering

The much anticipated Saunders Settlement Road sewer is complete. The rock elevation under the road was higher than anticipated, therefore requiring drilling under the road, at an additional cost of \$3,000. Lannon asks the Town Board to authorize a Change Order in the amount not to exceed \$3,000 to pay for road crossing. Agnello is aware of this and this will be paid from H-97.

Geiben MOVED to accept the Change Order for the Saunders Settlement Road sewer, not to exceed \$3,000, Seconded by Morreale and Carried 4 – 0.

Morreale asked Lannon if it is known when the waterline project will begin. Lannon said a lot of progress is being made with the regulatory approval agencies, with exception to NYS DOT. It will be a bit of time before advertising, so Lannon said it will not be this summer.

Finance

Agnello requested to transfer \$3,000 to Town Clerk Personal Services - A00-1410-0100-0000 from A-Fund Contingency - A00-1990-0400-0000, to cover a union negotiated stipend payment.

Morreale MOVED to transfer \$3,000 from A Fund Contingency – A00-1990-0400-0000 to A00-1410-0100-0000, Seconded by Jacoby and Carried 4 – 0.

Agnello requested Board approval for the phone system from Spectrum, and to authorize Broderick to sign the contract.

The Board approved a contract in December but it was thought the product was more than what is needed. The term of the contract was extended from one to three years. Spectrum has agreed to go back to December pricing. Contract has been reviewed by the Town Attorney.

Morreale MOVED to approve the new contract with Spectrum, dated April 2, 2019, and authorize Broderick to sign, Seconded by Jacoby and Carried 4 – 0.

The Town property insurance is up for renewal. The Town has USI, formally Key Insurance. It will be the same coverage as last year, with a small addition of computer fraud coverage for an additional \$111/year. All fund transfers are done through computers, so it is good coverage to include. This increase still leaves this under-budget. Agnello requests the Board approve the Supervisor to sign the contract. Contract has been reviewed by the Town Attorney.

Geiben MOVED to approve Broderick to sign the Insurance renewal contract, Seconded by Jacoby and Carried 4 – 0.

Agnello is happy to announce that on April 5th Moody's published the Town's report and the Town is still A-1. The full report is on Moodys.com. The Auditors will begin their field work here on May 20th.

COUNCILMAN BAX – Excused

COUNCILMAN GEIBEN

Geiben deferred the Niagara University Agreement, regarding the Dwyer Arena sign to T. Seaman. Seaman circulated an e-mail earlier today, which is an on-going conversation. Seaman is waiting to hear from Niagara University Council, and asks this be tabled until May meeting.

COUNCILMAN JACOBY

Attorney Ned Perlman will represent the Town on the Niagara County Sheriff's Office tower application for the Highway Garage. Jacoby reviewed some points that need to be addressed.

Niagara County will apply and request variance for lattice and pay \$150 application fee. Jacoby said this is still up in the air. This needs to be discussed with Perlman, Masters and Seaman to see the best way to go. The options are grant variance or amend the Town Code to have it apply only to emergency communication towers.

Perlman said the lattice towers are expressly excluded within the Tower Ordinance. Perlman does not know the reason why. Variances are generally area variances or use variances. It maybe preferred to amend the ordinance to allow the lattice towers for emergency communications. This is just considerations between the two.

Jacoby would like the Board to come to an agreement tonight, so a Public Hearing can be scheduled. Jacoby asked if any Board members are opposed to the lattice tower. Broderick said not in this situation.

Jacoby asked Masters if he thinks amending the code is the best way to go. The variance seems to be a little more troublesome and take more time.

Masters said if the Board amended the Code saying that a lattice tower is now okay for emergency communication towers, which would make Upper Mountain's illegal tower, legal.

Broderick does not believe anything can be done tonight. Perlman said if amending the Code, a Local Law would need to be written, presented, then a Public Hearing scheduled. The Board needs to make a decision then move forward.

Niagara County will pay for any fees incurred by the Town (ZBA, Engineer Review, Building Permit, etc.)Town will waive fees for application, renewals, extra height. Jacoby said these are fees that have been waived in the past for other government agencies. Perlman said if the Town is going to

incur a disbursement, such as if the ZBA needs to give the variance, they would have to advertise, and that fee would be paid by the County.

If it is a Town fee, where the Town doesn't have an underlining cost, those would be waived. When this was discussed with the County's Attorney, Claude George, he asked that the Town Engineer perform/prepare the SEQRA Long Form. That would be a disbursement the Town would incur, therefore the County should reimburse.

In regards to the Long SEQRA, Jacoby said the Environmental Commission are the people to complete the SEQRA for a tower. The Commission has done a few, and is pretty good at it.

Town and the County need to come to terms on the lease and location at the Highway site. Building Permit is required (Fee will be waived) Annual structural Inspections are required and documentation provided to the Town, no request for renewal will be required, it will be covered by lease. No Franchise Fee, covered by lease. No annual use tax, covered by lease.

Lease to address any future co-locations if desired. It is Jacoby's believe the Town does not want co-locations.

All structural analysis will be provided for review prior to building permit issuance. All electrical Inspections will be done by Atlantic-Inland who is the Towns 3rd party inspector. Inspection fees for Atlantic will be paid to Atlantic by the County.

Geiben questions who will do the SEQRA. Jacoby said the Code says the Environmental Commission.

Jacoby would like to approve all, except number one.

Masters said they submitted a general application, but nothing has been done, until the fees have been addressed.

Jacoby MOVED the following list addressing the fees: Niagara County will pay for any fees incurred by the Town (ZBA, Engineer Review, Building Permit, etc.); Town will waive fees for application, renewals, extra height; Town and County need to come to terms on the lease and location at the Highway site; Building Permit is required (Fee to be waived); Annual structural Inspections are required and documentation provided to the Town, no request for renewal will be required, it will be covered by lease; No Franchise Fee to be covered by lease; No annual use-tax to be covered lease; Lease to address any future co-locations if desired; All structural analysis will be provided for review prior to building permit issuance; All electrical Inspections will be done by Atlantic-Inland who is the Towns 3rd party inspector. Inspection fees for Atlantic will be paid to Atlantic, by the County, Seconded by Morreale and Carried 4 – 0.

COUNCILMAN MORREALE – Nothing to report

RESIDENTS STATEMENTS

Glasgow, Paulette – The Circle – Glasgow asked if the Board is saying the tower on Upper Mountain Road is illegal.

Masters said a Supreme Justice said it was legal.

Glasgow asked Geiben if he will address the conversation that took place between himself and Collesano regarding the Senior Board. Geiben said he had a conversation with Glasgow and Collesano to see where the Senior Advisory Board stands. Geiben will report back next month.

Geiben MOVED to adjourn the meeting, Seconded by Morreale and Carried 4 – 0. (6:53 pm)