

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax, Geiben, Jacoby and Morreale; Finance Director Agnello; Attorney Seaman; Engineer Lannon; Building Inspector Masters, WWTP Chief Opt. Ritter; Water Foreman Zahno; Police Chief Previte; 2 Press; 9 Residents and Clerk Donna Garfinkel

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

AGENDA APPROVAL

Agenda revisions: Audit review will be Geiben.

Agenda Additions: Broderick – Hire attorney to represent the Town in lawsuit; Grant Writing – NYS Archive Grant; Jacoby – Fire Bureau; Lannon – Advertise for bids

AGENDA APPROVAL

Geiben MOVED for approval of the Agenda as amended, Seconded by Jacoby and Carried 5 – 0.

Geiben introduced Roland Abbondanza. He will be assisting with the videotaping of the meeting. Board thanked him for his help.

RESIDENTS STATEMENTS

Michnevitz, Susan – Sweethome Road – Michnevitz is requesting the Board revisit the details of R-1 Zoning. The present code does not allow for what is called “Home Employment”, as stated in the Town of Niagara Code.

Michnevitz has a cease and desist with her Airbnb. Michnevitz’s interest is an owner occupied situation. She lives in the house and shares it with her guests.

Michnevitz also requests the Board review the complaint procedure; it needs improvement. When a resident receives a complaint from the Town the procedure is pretty loopy, with not being able to give details. Michnevitz submitted a FOIL on the complaint that said she had too many Asians in her house and the police have been there. Michnevitz said both of these are a crock. The guests in the Airbnb have been from 22 countries plus the US.

Lyle, Steve – Lower River Road – Lyle asked for an update on the cameras. Where is it being stored? When it will be on line and available?

Etue, Doug – Moore Road – Etue attended the last Board meeting when the solar system on Moore Road was approved. Etue asked if all the plans that were shown, when the system goes in, it will meet all the codes of the Solar System of the Town of Lewiston? Broderick said yes.

Etue said the code reads “in an RR District the total surface area of a ground mounted solar system cannot exceed 5% of the lot area.” Building Inspector Masters said it is not ground mounted solar it is utility scale. This is addressed under the Town’s new Solar Law.

Beebe, Margaret – Powell Lane – Beebe referenced a letter she received on September 12, 2017 regarding the removal of dead ash trees. It is now a year and four months later, and it looks like the job has been abandoned and looks like a war zone. Beebe has spoken to Dashineau and called Broderick’s office in November and never received a call back. Beebe would like to know what the plan is, if there is a plan, and when this will be completed.

Broderick said the contractor promised him he will be done by the end of February or first week in March. Broderick spoke to Dashineau today and was told the contractor has not started. Broderick will call him tomorrow. If not him the Town will have to bid out to another company.

Dashineau said Beebe is not in phase two, she was in phase one. Beebe’s concern is on the restoration side. All ash trees are down around her property. The backyard looks completely

different from before this project started. There was a heavy density of trees back there. Their property on the back side is going to be fundamentally changed.

Dashineau said it has not been discussed as to what will happen with the greenspace after all trees are down. Dashineau has inspected all the properties when Angry Beaver reported he was done. Dashineau did not see any ash trees.

As far as Angry Beaver is concerned, her backyard is not part of their contract.

Broderick said there is no restoration plan in place. Beebe said there are ruts, standing water and dead debris. Broderick said as far as that, we will work with the Highway Superintendent to go in there. Getting the project done is first, the Town will not be planting anymore trees in there. It will be just a clean-up.

Dashineau said in the Spring, the water will dry up. The Parks Dept. already has plans to go in and try to remove some of the debris and try to get the water flowing.

Dashineau said Beebe has a natural spring in the back. Once disturbed, it moves differently. This concern will be brought up by others.

DEPARTMENT HEAD STATEMENTS

Chief Previte – Police are holding two Active Shooter drills. Lewiston-Porter – Feb. 15, 2019 / Niagara Wheatfield – March 15, 2019. Police are partnering with Mount St. Mary's Hospital. They will transfer mock victims to test Mt. St. Mary's ability.

WPC Chief Operator Ritter – Ritter request approval to advertise for the Sludge Dewatering Project. Would like to open the bid on February 8, 2019, and then move for approval in March.

Bax MOVED to advertise for the Sludge Dewatering Project at WPC, Seconded by Geiben and Carried 5 – 0.

Town Historian Maggard – Working on the history and design of the Town of Lewiston flag. Maggard asked Board members if they recall the design of the flag being a contest through the schools.

Geiben spoke of the fire in the Village of Barker and how the records were stored. Geiben asked Maggard how she feels about how the records are kept. Maggard has spoken to Masters and he suggests the items be placed in a fire proof file cabinet. Geiben wants to look at this at budget time.

APPROVAL OF MEETING MINUTES

Geiben MOVED approval of the January 7, 2019, Reorganization Meeting / Work Session, Seconded by Jacoby and Carried 5 – 0.

Geiben MOVED approval of the December 27, 2018 - Final Audit / RTBM, Seconded by Bax and Carried 5 – 0.

AUDIT PAYMENT

Geiben MOVED approval of the Regular Abstract of Claims for the fiscal year 2018 number 3992- to 4183 and for fiscal year 2019 numbered 1 to 152 and recommend payment in the amount \$984,501.38, plus a Post Audit of \$399,656.24, Seconded by Morreale and Carried 5 – 0.

OLD BUSINESS

Irrigation bid award – Washuta Park – Dashineau said proposals received were above what was budgeted for in 2018. All RFP's were above the estimated amount. The project will be started in 2019. Dashineau will sit with Morreale and work on funding. A bid packet will need to be prepared.

Broderick removed this from the agenda.

Seaman said the Board needs to make a resolution to reject all bids. Dashineau said they were proposals coming in with different specs.

Geiben MOVED to reject all proposals received for the Irrigation Project at Washuta Park, Seconded by Morreale and Carried 5 – 0.

SPCA Contract

At the December meeting the Board had the SPCA contract to approve. Chief Previte brought up a concern for calls on the Tuscarora Indian Reservation. Clerk Garfinkel, Broderick, Previte and the Director of the SPCA met and discussed this. Discussion thoughts were forwarded to Seaman.

Seaman said no changes were made to the contract presented to the Board in December.

Broderick said Previte is confident in the answers received from the SPCA in regards to the Reservation.

Geiben MOVED to approve the Niagara County SPCA Contract, dated February 1, 2019, Seconded by Jacoby and Carried 5 – 0.

Geiben MOVED to authorize the Supervisor to sign the Niagara County SPCA Contract, Seconded by Bax and Carried 5 – 0.

PENDING

Zoning Board of Appeals - Vice Chairman

Geiben MOVED to appoint Joseph Conti as Vice-Chairman, Seconded by Bax and Carried 5 – 0.

NEW BUSINESS – None

SUPERVISOR BRODERICK

Liaison Report

Tax Refund - Grass Cutting – Dompkowski

Dompkowski submitted a letter to the Town Board requesting a refund for the Grass Cutting / Maintenance fee placed on a tax bill of a home she purchased in November.

Dompkowski explained the situation. They purchased an abandoned home on Orchard Drive. In August, prior to purchasing the property, she called Town Hall asking if there were any outstanding fees in water and taxes. Dompkowski knows that when you buy a property, if there is anything outstanding, you assume those. At that time everything was paid. Just before closing Dompkowski called Town Hall again. As an accountant, she sees a lot of closing statements so knows there are a lot of different things that can pop-up on a tax bill, so she wanted to make sure. When talking to the girl at Town Hall, she was specific when saying “is there anything outstanding”. Not just referencing water and taxes. Whether the girl thought she meant just water and taxes are not known. Dompkowski feels she was pretty clear.

Dompkowski said when talking to the girl she asked how much the taxes would be and was told about \$1,500. It would have been that, but when the bill was received Dompkowski saw the Town charge for \$280. Dompkowski called Town Hall and no one could tell her right away, they needed to look into it, and then was told it was grass cutting from June.

Dompkowski called in August and again in November and she feels that when she was told, even in November, that there was nothing outstanding on the property, if there was a change that another department could have had, that they would have put on this bill, Dompkowski feels she shouldn't

have been told everything was paid in full. She should have been told “Well I don’t see anything on the water bill and I don’t see anything on the tax bill, but we have other departments that bill. Let me check with those other department and get back to you.’ Or “here is the phone number of the other departments to see if they have anything outstanding.” And that didn’t occur.

So Dompkowski, as a person that bought a house, did her due-diligence to see if there was anything more than taxes and water due.

Jacoby feels they did everything a wise and prudent man would do. Jacoby hopes that there is some way, without setting a dangerous precedence; we could make them whole again.

Seaman said the issue is it is on the tax bill. It is past the point to correct a tax bill.

Dompkowski said she called the County, it is not County money. The tax bill would be paid and the Town would send the County their portion. This is a Town of Lewiston bill/invoice. The Town of Lewiston is looking for the money.

Seaman said, nevertheless the Tax Collector has to collect the total amount on the tax bill, no partial payments are accepted. The Town is out that money, the Town paid the vendor to cut the grass.

Broderick asked what the Town paid out. Masters said the Town paid the vendor \$180 and \$100 is Administration fee.

Bax asked Dompkowski if she called the County for the taxes owed. Dompkowski said she called the Town in November. Bax believes if Dompkowski called the Treasurer’s office in the County they would have told her there were fees. Internally there should be protocol to address these calls.

Broderick would be inclined to waive the \$100 administration fee. The Town paid \$180 to have the grass cut. Geiben is in favor of that but questions what account this will come from.

Seaman said the tax bill needs to be paid in full. Broderick said the bill would be paid and a refund could be given.

Dompkowski asked Jacoby “What else could I have done, going into that property, what else could I have done to avoid this?” Again Dompkowski feels that if there were other charges coming from other directions, the answer shouldn’t have been to her “your good, everything is paid in full”. It should have been, “geez there are charges from other departments”.

Bax told Dompkowski that there are people she could pay in Lockport to conduct a tax search on a property.

Masters said this is dealt with quite often, a resident will call and depending on how they ask the question, they don’t always get the right answer. It depends on how the question is asked. Some house closings, will have the attorney forward a letter to the Building office, asking for zoning violations, infractions etc... and a search would have been done.

Broderick suggests a form be created to handle such a situation.

Bax MOVED to refund the \$100 Administration Fee, Seconded by Geiben and Carried 4 – 0.
Morreale recused himself.

Legal

Introduce – Local Law – Remove certain member limitations. Seaman said a question arose as to whether or not the Town Historian can serve on the Zoning Board of Appeals. After research, there is no probation in State law. But in the Town Code, there is a line that indicates this could not happen. The same line is in the Planning Board code.

At the request of Broderick, Seaman drafted a Local Law to remove this from the Town Code.

Geiben MOVED to introduce the Local Law removing certain limitations from members of the Zoning Board of Appeals and Planning Board, Seconded by Bax and Carried 5 – 0.

Geiben MOVED to set a Public Hearing for February 11, 2019 at 6 pm, Seconded by Bax

Discussion to hold at the Regular Town Board meeting.

Geiben MOVED to amend to February 25, 2019 at 6 pm, Seconded by Bax and Carried 5 – 0.

Approve - Teamsters Police Collective Bargaining Agreement

This contract was passed on to Seaman from former Attorney Parisi. The contract has since been signed by the Teamsters and the Board now needs to approve the agreement and authorize the Supervisor to sign.

Bax MOVED to approve the Teamsters Police Collective Bargaining Agreement, Seconded by Geiben and Carried 5 – 0.

Bax MOVED to authorize the Supervisor to sign the Teamsters Police Collective Bargaining Agreement, Seconded by Morreale and Carried 5 – 0.

The Town has been served a lawsuit from Modern Disposal Services, Inc. Seaman does not have the time to represent the Town. Attorney Edward Perlman submitted a proposal to represent the Town.

Broderick MOVED to hire Edward Perlman at \$225/hour to represent the Town in the suit regarding Modern Disposal Services vs. the Town of Lewiston, Seconded by Geiben and Carried 5 – 0.

The Town will apply for a NYS Archives Records Grant with Town Grant Writer Connie Miner.

Broderick MOVED to approve Connie Miner – Town Grant Writer to apply for a NYS Archives Records Grant, Seconded by Geiben and Carried 5 – 0.

Finance - Budget Adjustments

The following transfers are requested from the 2018 Town Budget.

Request transfer of \$676 to Professional Report Fees (A00-1220-0401-0000) from Budget Officer Contractual (A00-1310-0400-0000) to cover the deficit due to additional professional fees associated with the BAN for the water line project.

Geiben MOVED the transfer of \$676 to Professional Report Fees - A00-1220-0401-0000 from Budget Officer Contractual- A00-1310-0400-0000, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$1,345 to Recreation Ice Rink Contractual (A00-7310-0403-4403) from Recreation Seasonal Personal (A00-7310-0100-4403) to cover the deficit in the 2018 Ice Rink Contractual budget. This is being funded from unused Ice Rink Seasonal Personal budget.

Geiben MOVED the transfer of \$1,345 to Recreation Ice Rink Contractual - A00-7310-0403-4403 from Recreation Seasonal Personal - A00-7310-0100-4403, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$1,000 to Senior Center Contractual (A00-7630-0400-0000) from Senior Center Personal (A00-7630-0100-0000) to cover the deficit in the 2018 Contractual budget. This is being funded from unused Senior Center Personal budget.

Geiben MOVED the transfer of \$1,000 to Senior Center Contractual - A00-7630-0400-000, from Senior Center Personal - A00-7630-0100-0000, Seconded by Jacoby and Carried 5 – 0.

Request to increase both Police Grants Revenue (B00-1000-1520-0000) and Police Equipment (B00-3120-0200-0000) by \$7,400. The Police Department received a grant for \$7,400 as reimbursement for the purchase of Rifles and Ballistic Vests & Helmets. This budget request will increase the grant revenue and equipment budget, to cover the equipment purchase.

Geiben MOVED to increase Police Grants Revenue - B00-1000-1520-0000 and Police Equipment - B00-3120-0200-0000, by \$7,400, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$3,000 to Police Contractual (B00-3120-0400-0000) from Police Equipment (B00-3120-0200-0000) to cover the deficit in the 2018 Contractual budget. This is being funded from unused Equipment budget.

Geiben MOVED the transfer of \$3,000 to Police Contractual - B00-3120-0400-0000, from Police Equipment - B00-3120-0200-0000, Seconded by Bax and Carried 5 – 0.

Request transfer of \$1,190 to Highway Unemployment Insurance (DB0-9050-0800-0000) from Highway Insurance (DB0-1910-0400-0000) to cover the deficit in the 2018 Unemployment Insurance budget. This is being funded from unused General Insurance budget.

Geiben MOVED the transfer of \$1,190 to Highway Unemployment Insurance - DB0-9050-0800-0000 from Highway Insurance - DB0-1910-0400-0000, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$18,565 to Treatment & Disposal Contractual (SS1-8130-0400-0000) from Treatment & Disposal Personal (SS1-8130-0100-0000) to cover the deficit in the 2018 Contractual budget. This is being funded from unused Treatment & Disposal Personal budget.

Geiben MOVED the transfer of \$18,565 to Treatment & Disposal Contractual - SS1-8130-0400-0000) from Treatment & Disposal Personal - SS1-8130-0100-0000, Seconded by Bax and Carried 5 – 0.

Request transfer of \$9,682 to Treatment & Disposal Gas & Electric (SS1-8130-0400-3500) from Treatment & Disposal Personal (SS1-8130-100-0000) to cover the deficit in the 2018 Gas & Electric budget. This is being funded from unused Treatment & Disposal Personal budget.

Jacoby MOVED the transfer of \$9,682 to Treatment & Disposal Gas & Electric - SS1-8130-0400-3500, from Treatment & Disposal Personal - SS1-8130-100-0000, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$400 to South Sewer Gas & Electric (SS3-8120-0400-0000) from South Sewer Contractual (SS3-8120-0400-0000) to cover the deficit in the 2018 Gas & Electric budget. This is being funded from unused South Sewer Contractual budget.

Jacoby MOVED the transfer of \$400 to South Sewer Gas & Electric - SS3-8120-0400-0000, from the South Sewer Contractual - SS3-8120-0400-0000, Seconded by Morreale and Carried 5 – 0.

The following transfers are requested from the 2019 Town Budget.

The following five (5) transfers are to accommodate the increase in Workers Compensation. The 2019 Workers Compensation assessed amount was received after the 2019 adopted budget was submitted.

Request transfer of \$38,414 to Workers Compensation (B00-9040-0800-0000) from B-Fund Contingency (B00-1990-0400-0000).

Geiben MOVED the transfer of \$38,414 to Workers Compensation - B00-9040-0800-0000, from B-Fund Contingency - B00-1990-0400-0000, Seconded by Bax and Carried 5 – 0.

Request transfer of \$8,562 to Workers Compensation (DB0-9040-0800-0000) from DB0 Seasonal Help Personal (DB0-5110-0100-0000).

Jacoby MOVED the transfer of \$8,562 to Workers Compensation - DB0-9040-0800-0000, from DB0 Seasonal Help Personal - DB0-5110-0100-0000, Seconded by Bax

Morreale questioned if the Town is prorated on the amount paid. Agnello said the Town rate for Workers Compensation is on accidents, and they take a three-year average. This bill increased 65% over-all.

Agnello has reached out to Association of Towns and Confidential Secretary Smith has reached out Niagara County Worker's Compensation to see if there is any training to reduce the rate.

Carried 5 – 0.

Request transfer of \$9,565 to Workers Compensation (SF0-9040-0800-0000) from SF0 Fund Balance (SF0-1000-0599-0000)

Bax MOVED the transfer of \$9,565 to Workers Compensation - SF0-9040-0800-0000, from SF0 Fund Balance - SF0-1000-0599-0000, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$609 to Workers Compensation (SS1-9040-0800-0000) from SS1 Leachate revenue (SS1-100-2122-0090).

Bax MOVED the transfer of \$609 to Workers Compensation - SS1-9040-0800-0000, from SS1 Leachate Revenue - SS1-100-2122-0090, Seconded by Jacoby and Carried 5 – 0.

Request transfer of \$6,284 to Workers Compensation (SW1-9040-0800-0000) from SW1 Equipment (SW1-8340-0200-0000).

Bax MOVED the transfer of \$6,284 to Workers Compensation - SW1-9040-0800-0000, from SW1 Equipment - SW1-8340-0200-0000, Seconded by Morreale and Carried 5 – 0.

Request transfer of \$817 to Taxes Municipal Property (A00-1950-0400-0000) from A-Fund Contingency (A00-1990-400-0000) to cover the increase in 2019 property taxes on our municipal properties.

Jacoby MOVED the transfer of \$817 to Taxes Municipal Property - A00-1950-0400-0000, from A-Fund Contingency - A00-1990-400-0000, Seconded by Morreale and Carried 5 – 0.

Engineering

Lannon is working with Town departments on the final construction of the Police / Parks Storage building. Lannon needs permission from the Board to advertise for construction of the project.

Bax MOVED to allow Lannon to move forward with advertising for the construction of the Police / Parks Storage building, Seconded by Jacoby and Carried 5 – 0.

COUNCILMAN BAX Nothing to report

COUNCILMAN GEIBEN

Liaison Report

Professor Abbondanza has been ill and Geiben has not been able to meet with him regarding the televising of the Board meetings. It is being posted on You-Tube.

COUNCILMAN JACOBY

Liaison Report

Jacoby attended the Fire Bureau meeting and the BAS program was discussed. The Fire Bureau didn't budget for new computers. It was thought they were adequate.

To load the new program, train all those involved and then a month down the road the system breaks because it can't be handled, is not a good idea.

Fire Bureau agrees to spend \$500 from Fire Bureau Equipment and \$100 from Contractual to cover the cost of the computers.

Jacoby MOVED to allow the Fire Bureau to spend \$500 from Fire Bureau Equipment and \$100 from Contractual to cover the cost of computers for the BAS program, Seconded by Geiben and Carried 5 – 0.

COUNCILMAN MORREALE

Liaison Report

One Lot Subdivision – LMK Realty Assoc. – The Planning Board reviewed a one-lot subdivision request from LMK Realty Assoc. – SBL# 101.12-1-9.12 located on the south side of Legacy Drive.

Geiben MOVED to accept a Negative Declaration on the SEORA, Seconded by Jacoby and Carried 5 – 0.

Morreale MOVED to accept the Planning Board's recommendation for approval, Seconded by Geiben and Carried 5 – 0.

Street Light request – Roosevelt Avenue – Engineering and Building, along with Morreale and Jacoby reviewed the request and went to the property. This request does not meet the Town Standards for street lighting. Clerk asked to respond to resident.

RESIDENTS STATEMENTS

Lyle, Steve – Lower River Road – Lyle questioned if the minutes from the Environmental Commission are being received. Clerk will look into it and get them on the website.

Glasgow, Paulette – The Circle – The Board did it again, passed a resolution without it being on the website. Clerk asked which information was not on the website. Glasgow said the Local Law. The Clerk did not receive in time; therefore it is on the back table.

Glasgow has asked Parisi this question many times but never received an answer, so she will ask Seaman. “Is it required by law to post a resolution or Local Law prior to voting on it?” Seaman asked to post it where? Glasgow said the website. Seaman said no to the resolution. Board members will/can make resolutions at the meeting. In regards to a Local Law, it needs to be advertised and be made available.

Bax MOVED to adjourn the meeting, Seconded by Jacoby and Carried 5 – 0 (7:06 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk