

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, B. Geiben & R. Morreale; Dep. Sup. W. Conrad; Police Chief Previte; Finance Director/Budget Officer M. Blazick; Eng. B. Lannon; Attorneys J. Catalano & R. Parisi; Water Foreman M. Townsend; Grant Writer Bernie Rotella; 1 Press; 10 Residents and Dep. Clerk C. Schroeder

Excused: Bldg. Insp. T. Masters; WPCO Chief Operator J. Ritter; Hwy. Supt. D. Trane

The Supervisor called the Work Session to order, followed by the Pledge of Allegiance and a moment of silent reflection in remembrance of a State Trooper who was killed in Watertown, NY and a NYC Police Officer killed last week.

AGENDA: Additions: Broderick: Resolution in Support of the Children's Psychiatric Center and a water bill settlement; Parisi: Resolution authorizing Seaman Norris to handle litigation involving two grievances from the Highway Dept.; Catalano: Executive Session re: pending litigation.

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

ABSTRACT:

Geiben MOVED to approve the Regular Abstract of Claims Numbered 1770 to 1949 and recommended payment in the amount of \$400,055.99, plus a post audit of \$39,032.40. Seconded by Bax and carried 5-0.

MINUTES:

Bax MOVED to approve the minutes of 6/26/2017, PH/RTBM. Seconded by Ceretto and carried 5-0.

DEPARTMENT HEAD CONCERNS:

Water: Townsend said the Water Dept. sent out letters to residents whose meters give out a signal of a leak alarm. A positive response was received.

Police: Chief Previte said they had a major incident that occurred on Pletcher Road. They were able to come to a resolution and find the person they were searching for with the assistance of the Sheriff's Dept., NYS Police and U.S. Border Patrol.

Grant Writer: Rotella said a Greenway Presentation on the Morgan Lewis Bust and Discover Niagara Shuttle will be held on July 18, 2017 at the Casino Building at Beaver Island (Grand Island) at 3 PM. The Justice Court Assistance Program is open. He will be working with the Court Clerks. He is working with the Police Dept. on a grant for some additional equipment.

Finance: Blazick requested approval for three budget revisions. 1) Adjust the budget for Union Medical Benefits for the new Teamster's Union. Funds need to be moved from Hospital & Medical Insurance to Union Welfare Benefits; 2) Correct an error in the bond interest schedule that was provided by Municipal Solutions in preparation of the 2017 budget. The amount of interest was underestimated in the Highway and Water funds. However, the insurance renewal was under what was budgeted so funds are available to make the reclassification; and 3) The Highway Supt. requests to transfer funds from Insurance, where there is an overage, to Seasonal Help.

Geiben MOVED the following budget revisions as prepared by the Finance Officer: Transfer \$8,006.00 from B00-9060-0800-0200 (Hospital/Medical Ins-Police) to B00-9070-0800-0200 (Union Welfare Benefits-Police); Transfer \$39,432.00 from A00-9060-0800-0000 (Hospital/Medical Ins) to A00-9070-0800-0000 (Union Welfare Benefits); Transfer \$29,903.00 from B00-9060-0800-0000 (Hospital/Medical Ins) to B00-9070-0800-0000 (Union Welfare Benefits); Transfer \$3,426.00 from SS1-9060-0800-0000 (Medical Insurance) to SS1-9070-0800-0000 (Union Welfare Benefits). Seconded by Morreale and carried 5-0.

Geiben MOVED reclassification for correction in Bond Interest payments: Transfer \$1,063.00 from DB0-1910-0400-0000 to DB0-9710-0700-0000 (\$850.00) and DB0-9710-0700-0100 (\$213.00). Transfer \$4,644.00 from SW1-1910-0400-0000 and \$31.00 (SW1-8310-0100-0000) to SW1-9710-0700-0000. Seconded by Ceretto and carried 5-0.

Geiben MOVED reclassification of Insurance Overage to Seasonal Help: Transfer \$10,000 from DB0-1910-0400-0000 to DB0-5110-0100-0200. Seconded by Ceretto and carried 5-0.

Blazick said the Bond Anticipation Note (BAN) for the Highway Dept. is currently at \$1,475,000.00. It is up for renewal in September. She has spoken to Municipal Solutions extensively, and their recommendation is the Town re-new the BAN for one more year.

Geiben MOVED to re-new the B.A.N. for one more year. Seconded by Morreale and carried 5-0.

In regards to the Hydro reimbursement, Broderick said the list has been finalized and sent to Key Bank. The reimbursement will be going out sometime between now and September 30, 2017. He asked all residents to open their mail, whether they believe it to be junk mail or not, until they get their pre-paid card. A list was compiled of residential users paying National Grid as of May 18, 2017. It is a one-time disbursement. The pre-paid card is \$153.00 per residential user. The envelope will not identify the sender. The mailing will contain a letter from the Supervisor and the card will be embossed with the words "Town of Lewiston/NYPA 2017". The envelope will contain detailed instructions on how to activate the card. Once the cards are issued, Key Bank will be the point of contact.

Bax thanked Blazick and the Supervisor for their hard work. Geiben thanked Blazick for all the safety measures put into place. In the event someone is overlooked there will be a process in place for them to get their reimbursement.

OLD BUSINESS:

Sanborn Business Association Portable Lighted Sign – Broderick said they are waiting for a signature from Paul Wendt. It has already been approved by the Town Board. Broderick said he spoke with the Business Association that day.

LEGAL:

Atty. Parisi asked for a resolution authorizing the law firm of Seaman Norris, LLP to handle two grievances per their retainer agreement with the Town. They are grievances 2017-001 and 2017-002 filed by the Town Highway Department regarding overtime hours.

Geiben MOVED for approval. Seconded by Morreale and carried 5-0.

WATER LINE PROJECT:

Atty. Brian Seaman, Seaman Norris, LLP, provided a re-cap of what has been done and what remains to be done to establish a Town-Wide Water District. Seaman said the Water Department brought to the Board's attention that there were some portions of water lines in the Town that were severely in need of replacement. There was some input from the Fire Inspectors that water pressure was low. There were portions of the Town that needed attention. That started the ball rolling where the Town started to get to work on this particular project. Seaman said they went thru a series of proceedings/resolutions where they dissolved a number of water districts that were formed piece-meal over the years. The Board determined to dissolve those little water districts that are all over the Town and to go forward and create a single water district that encompasses the entire Town. The Town would borrow money to do a Water Improvement. It would define the benefitted area as the entire Town, outside the Village

and Indian Reservation. These improvements would be put in, monies would be borrowed and bonds would be issued, etc. Consolidating a Town-wide water district eliminates a piece-meal water district that wasn't being recognized or people didn't know what the boundaries were.

The next step in the process was a Map, Plan & Report prepared by GHD Engineers. As part of that, GHD put a section in the report of the cost of the improvements, and specifically to analysis how much it would cost to a typical property in the Town. Seaman said GHD did a thorough job of explaining exactly what they were doing with those calculations. Section 4 of the Map, Plan and Report lays that out.

Seaman said the waterline project is anticipated to be financed with municipal bonds over 30 years. The total annual debt service cost associated with the bond is estimated at \$555,000 annually. The question remains how to pay this debt service – thru water usage or a real property tax. Seaman said if the Town determines to raise the money by increasing water rates it would result in a 40% increase in the water rates. If it is set by a real property tax, via an ad valorem assessment, someone with a valuable piece of property would pay more. If it is paid by a water bill, it's by consumption.

Seaman was asked about tax exempt properties. Seaman said most exempt properties have to pay a portion of a special district assessment that is raised for capital expenditures for water and sewer. Most exempt properties will still pay a portion of the tax which is assessed to the capital expenditure. The amount that is raised for taxes, in order to pay for this capital improvement, will go on the tax bill for exempt properties. Certain types of exempt properties are exempt from everything, for example, the Federal Gov't, cemeteries and New York State Authorities. NYPA is exempt, he said.

At this time, Seaman said he would answer any questions. Going forward, he said there are a number of steps still left in this process. He circulated a resolution/order which sets a Public Hearing and identifies the boundaries of the proposed district. It also outlays the cost of a typical one and two family residence. Assuming the Town adopts the Order and sets a Public Hearing, after the Public Hearing is held, the Town can pass a resolution which would approve the district. There is then a 30-day waiting period. Assuming nothing happens in the interim, there would be a final resolution establishing the water district.

Seaman said he would be available to answer any questions on July 18 at 1 PM and July 20 at 6:30 PM at the Town Hall. The Clerk was asked to note this in the Clerk's Corner. Concerns or questions can also be emailed to the Town Supervisor: Supervisor@townoflewiston.us. He would then forward them to Seaman.

Bax asked Seaman to catalog the concerns and questions raised and to forward a summary to the Town Board.

Amy Witryol, Town Resident, asked that they look at all scenarios when calculating what the cost per household would be. Furthermore, depending on the method chosen, it be given the blessing of the Water Department or Town Assessor.

Resident Steven Lyle asked if the sewer cost would be affected. Seaman said if the Town chose to increase the water rate, it would have to change the way sewer bills are calculated.

Lannon said sewage is based on water consumption. If a homeowner pays \$55 in a tax but doesn't use any more water, the sewer bill would remain the same.

Councilman Geiben offered the following resolution and moved its adoption:

ORDER CALLING FOR A PUBLIC
HEARING TO BE HELD ON
JULY 24, 2017

WHEREAS, the Town Board of the Town of Lewiston (herein called the "Town"), in the County of Niagara, New York has caused GHD, competent engineers duly licensed by the State of New York (the "Engineer"), to prepare a map, plan and report dated May 22, 2017 for the proposed establishment of the Town of Lewiston Water District (the "District"), in the Town, and the construction of improvements therein, consisting of the construction and installation of approximately 43,800 lineal feet of new waterline to replace existing deteriorated piping that will be abandoned in place, including interconnections, hydrants, valves, watermains, borings, road crossings, stream crossings, a railroad crossing and other ancillary or related work in connection therewith, as further described in said map, plan and report (referred to herein as the "Water Improvement"), which map, plan and report have been duly filed in the office of the Town Clerk for public inspection; and

WHEREAS, the Town Board of the Town has determined to proceed with the proposed establishment of the District; and

WHEREAS, the proposed District is bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND known as the Town of Lewiston, County of Niagara, State of New York, being all of Lots 10 through 29 of the New York State Reservation, plus Lot 1, Lots 4 through 8, Lots 11 through 15, lots 18 through 45 plus part of Lots 16 and 17 in Township 14, Range 9, plus Lots 33 through 49, Lots 53 through 57, Lots 62 through 64 in Township 14, Range 8 of the Holland Land Company's Survey and more particularly described as follows:

BEGINNING at the intersection of the northerly line of the Town of Wheatfield with the westerly line of the Town of Cambria; thence westerly along the northerly line of the Town of Wheatfield and the Town of Niagara and the City of Niagara Falls to a point located at the easterly edge of the Niagara River; thence northerly along the easterly edge of the Niagara River as it winds and bends to a point located in the southerly line of the Village of Lewiston; thence easterly, northerly and westerly along the southerly, easterly and northerly lines of the Village of Lewiston to a point located on the easterly edge of the Niagara River; thence northerly along the easterly edge of the Niagara River as it winds and bends to appoint located the southerly line of the Town of Porter; thence easterly along the southerly lines of the Town of Porter and the Town of Wilson to appoint located on the westerly line of the Town of Cambria; thence southerly along the westerly line of the Town of Cambria to the place or point of beginning.

Excepting the area known as the Tuscarora Indian Reservation, and

WHEREAS, the Town, as lead agent, has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law; and

WHEREAS, the maximum amount proposed to be expended for the establishment of the District and construction of the Water Improvement is estimated to be \$10,200,000, and the plan of financing includes the issuance of not to exceed \$10,200,000 bonds of the Town to finance said cost, and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District, in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable;

Now therefore, be it

DETERMINED AND STATED that the estimated cost of hook-up fees is \$-0- and the estimated cost of the establishment of the District and the construction of the Water Improvement to the Typical Property (as defined in the Town Law) is \$55.00 (the total cost to a Typical Property owner including water cost, existing debt service and the cost of the construction of this Water Improvement is \$285); and that the Town Board has heretofore caused to be prepared and filed for public inspection with the Town Clerk, a detailed explanation of how such estimates were computed; and further that the cost of the establishment of the District and construction of the Water Improvement to such Typical Property is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and therefore approval of the State Comptroller will not be required prior to establishment of the District; and be it

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 1375 Ridge Road, Lewiston, New York, on the 24th day of July, 2017, at 6 o'clock P.M. (Prevailing Time) to hear all persons interested in the subject thereof, concerning the same and for such

other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the "Niagara Gazette," hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and be it

FURTHER ORDERED, that the Town Clerk file a copy of this Order with the State Comptroller on or about the date of the publication of a copy of this order.

Morreale Seconded the foregoing resolution. Motion carried 5-0.

STANDARD WORK DAY REPORTING RESOLUTION:

Bax MOVED that the Town of Lewiston establishes the following standard work days for the Town Supervisor and Deputy Supervisor at 6 hr/day. Seconded by Morreale and carried 5-0.

GENERAL RELEASE AGREEMENT–NYPA RESERVOIR BRIDGE REHABILITATION:

The NYS DOT provided four (4) copies of the General Release Agreement, in the amount of \$128,928.47, to provide compensation and closeout the current contract for the work completed on the Reservoir Bridge Rehabilitation. The work was completed by the Town of Lewiston Water Department, the expense which is reimbursable as per the NYS DOT Utility Reimbursement Procedure Manual. Each copy of the agreement must be signed and duly executed by an authorized representative.

Bax MOVED to authorize the Supervisor to sign the General Release Agreement in connection with the NYPA Reservoir Bridge project to be held in escrow by Counsel, pending further discussion with NYPA. Seconded by Geiben and carried 5-0.

UPPER MOUNTAIN FIRE COMPANY ROSTER:

The following persons are no longer members of the Upper Mountain Vol. Fire Co. We request that the Town remove their names from the roster: Bruce Ohiphant.

Geiben MOVED for approval. Seconded by Ceretto and carried 5-0.

INTER-MUNICIPAL AGREEMENT – JOINT EMERGENCY RESPONSE TEAM:

Broderick said the purpose of this agreement is to establish and maintain a joint Emergency Response Team with the Niagara County Sheriff's Office and the Lewiston Police Department that will be available to either participating entity in the event of an emergency.

Geiben MOVED to authorize the Supervisor to sign the Inter-Municipal Agreement between Niagara County and the Town of Lewiston. Seconded by Morreale and carried 5-0.

MEDICAL BILL PAYMENT – D. NORWICH:

Town Employee, Darlene Norwich received a medical bill on 6/26/17 in the amount of \$255.55 for an x-ray performed on 8/15/16. She was told this would be covered by her deductible. The last date to submit medical bills for 2016 was 12/31/16; however she did not receive the bill until 2017. At the end of 2016, she had \$1,782.22 available for her deductible. Had she received the bill in a timely fashion, she would have submitted the payment. Mrs. Norwich is asking for a one time consideration in order to apply for this reimbursement. The Town of Lewiston received the access monies for the deductibles not claimed.

Atty. Parisi asked to table this until he has a chance to review it. "I want to make sure we don't run afoul of any anti-gifting provisions. It's not necessarily the Town's fault."

WATER BILL SETTLEMENT:

The Supervisor read the following Resolution:

WHEREAS, the Town of Lewiston ("Town") provides water meters upon request to Town residents and members of the general public for the purpose of tracking and billing water consumption from Town hydrants; and

WHEREAS, the Town discovered that Seth Raby, 2145 Ridge Rd., Lewiston, New York, was in possession of a Town water meter that was unknown to current Town employees; and

WHEREAS, it was discovered that Seth Raby was granted permission to take and use said water meter by a former Superintendent of the Town's Water Department; and

WHEREAS, the Town only maintains payment records for a period of eight (8) years; and

WHEREAS, the Town could not locate any records showing proof of payment for the water used by Seth Raby through the meter; and

WHEREAS, Seth Raby provided the Town a receipt for water consumption through the meter dating to 2003; and

WHEREAS, based on the meter reading at the time of the 2003 bill and the meter reading at the time the water meter was discovered, the maximum amount owed for water used would be \$1,400.00; and

WHEREAS, Seth Raby maintains that payments were made to the Town after 2003; and

WHEREAS, the Town has a policy of collecting all Town owned water meters on a yearly basis and billing users for the water used at that time; and

WHEREAS, the town failed to collect the water meter or bill for water used on a yearly basis per Town policy; and

WHEREAS, the cost of retaining an attorney for the purpose of litigating this would likely exceed the maximum amount owed the Town; and

WHEREAS, Seth Raby has offered the Town \$700.00 to settle the matter; and

WHEREAS, the Attorney for the Town, Ryan K. Parisi, has recommended that the settlement offer be accepted.

NOW THEREFORE BE IT, RESOLVED, that the Town accepts Seth Raby's offer of \$700.00 in full satisfaction of the water fees owed for meter collected from his property located at 2145 Ridge Rd., Lewiston, New York, and be it further

RESOLVED, that upon payment to the Town of \$700.00 the fees owing be deemed paid.

Geiben MOVED for approval of the Resolution, as read. Seconded by Morreale and carried 5-0.

DOG SHELTERING RESOLUTION:

The Supervisor provided an Agreement with the Town of Wilson, for the sheltering of seized dogs. He hoped this would be a temporary solution, as the Town of Lewiston is looking into the possibility of having its own kennel. Atty. Parisi said either party may terminate the agreement upon giving the other party thirty (30) days written notice.

Geiben MOVED to approve the Dog Sheltering Agreement with the Town of Wilson. Seconded by Ceretto and carried 5-0.

CERTIFIED RESOLUTION OF SUPPORT – A6505/S4630

Broderick said he received a resolution from Assemblyman Michael Kearns and Senator Patrick Gallivan in support of keeping the New York Children's Psychiatric Center in West Seneca. The Resolution reads as follows:

WHEREAS: The Western New York Children's Psychiatric Center opened in West Seneca in 1970. The Center takes seriously emotionally disturbed children between the ages of 4 to 18 year old from 19 Western New York counties. The 19 different counties in New York State include: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Herkimer, Livingston, Monroe, Niagara, Ontario, Orange, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming and Yates; and

WHEREAS: Despite the significant volume from these 19 counties, the Western New York Children's Psychiatric Center has the lowest 30 day and 90 day reinstatement or re-institutionalization rate of any facility in New York State. The costs of long term hospitalization

and institutionalization are drastically reduced and eliminated when the re-admission rates are low; and

WHEREAS: Governor Cuomo in his 2017 Budget proposes that the West Seneca Children's Psychiatric Center be moved to the Buffalo Psychiatric Center, an adult facility and campus. Moving these children into an adult setting would not be therapeutically beneficial and may in fact be detrimental to the psyches of many of these children; and

WHEREAS: The medicinal and therapeutic benefits of treating and counseling children with mental illnesses in both rural and school settings have been documented in many medical journals and academic papers. The Governor's proposal to place these children in a lock down facility with adults runs counter to science, logic and common sense; and

WHEREAS: The New York State Assembly and Senate unanimously passed A6505 / S4630 which prohibits the collocation of certain children's facilities with adult facilities in Erie County; and

WHEREAS: Governor Cuomo needs to sign this bill and save WNY Children's Psychiatric Center in West Seneca.

NOW THEREFORE BE IT RESOLVED: The Town of Lewiston supports the passage of the above bills in the New York State Legislature and also strongly encourages Governor Cuomo to immediately sign this necessary legislation into law.

Bax MOVED to support Assembly bill A6505 / and Senate bill S4630 and approve the resolution, as printed. Seconded by Geiben and carried 5-0.

The Supervisor received a letter from a Town resident who is having an issue with neighbors allowing their children to operate ATVs 50-ft from their bedroom, dining room and living room windows. NY Code 229-3 paragraph 4 "restricts the operation of any motorcycle, limited use motorcycle or limited-use off road vehicles, with or without written permission, within 500 feet of any dwellings other than the dwelling house of the operator." One of the operators of said ATV is a 9 year old boy. The resident was told the Police cannot arrest the rider as he is a minor. They are looking for the Town Board to change the wording of 229-5 Penalties for offenses to include Violator, or Parent or Guardian of said Violator, if a minor.

Broderick said the Town cannot supersede State Law. Parisi said they are looking into whether the Town can hold the parent liable for the actions of the minor, with respect to violating that particular provision of the Town Code. Broderick said he would meet with the complaint and Police Chief.

PUBLIC COMMENTS:

Rosemary Warren, Griffin Street, said she was shocked with the \$800/month being paid to ECA (Energy Cooperative of America) to oversee how the Hydro money is distributed. She wrote to the Commissioner of NYPA, asking why this would be so complicated that the Town hired this company. It is mind-boggling to me, she said.

Geiben MOVED to enter into Executive Session to discuss pending litigation. Seconded by Morreale and carried 5-0. Time: 7:10 PM.

*Executive Session (Minutes taken by A. Joseph Catalano, Esq.)

Present: Broderick, Bax, Ceretto, Geiben, Morreale, Conrad, Catalano, Parisi, Blazick

Issues Discussed: 1) Pending Litigation; 2) Pending Litigation. No Action taken.

Morreale MOVED to exit executive Session and adjourn Work Session. Seconded by Geiben and carried 5-0. Time 7:20 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk