

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, B. Geiben & R. Morreale; Dep. Sup. W. Conrad; Cpt. Penzotti; Bldg. Insp. T. Masters; Finance Director/Budget Officer M. Blazick; Eng. B. Lannon; Attorneys J. Catalano & R. Parisi; WPCC Chief Operator J. Ritter; Water Foreman M. Townsend; Director M. Dashineau; Grant Writer Bernie Rotella; 2 Press; 11 Residents and Dep. Clerk C. Schroeder

The Supervisor called the continuation of the Public Hearing/Work Session to order, followed by the Pledge of Allegiance and a moment of silent reflection. The Public Hearing is a continuation of a proposed local law re: Light Emitting Display (LED) and Electronic Messaging Display (EMD) signs. Catalano said this proposed change to Town Code 360-184 needs to be forwarded to the Niagara County Planning Board (NCPB) for review before it can be considered for adoption.

Broderick asked for public comment. There was none.

The Board had some issues with permitting two signs on corner lots. Morreale said it would be a distraction. Broderick said it should be one per lot. Masters agreed.

The Town Clerk had expressed concerns to Catalano, but she was told the Town Sign is exempt from this law because it is a municipal sign.

After much discussion, Catalano said the Board could schedule a Public Hearing on the revised local law, which he will provide the Board. It could be scheduled for the next meeting. He will forward the new proposal to the NCPB before the scheduled Public Hearing.

Broderick MOVED to close the Public Hearing, Seconded by Bax and carried 5-0.

Bax MOVED to schedule a Public Hearing for June 26, 2017 at 6 P.M. on the revised LED/EMD sign law, with the revision noted for one-sign per lot. Seconded by Ceretto and carried 5-0.

WORK SESSION:

Additions: Broderick: Update on Mobilitie (Tower); Executive Session – pending litigation; Personnel matter re: Individual Employee; Attorneys: Consultation with Attorneys re: pending and possible litigation.

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

NIAGARA UNIVERSITY – APPLICATION FOR RE-ZONING

Geiben said Niagara University is asking to Re-zone two parcels, Map No. 323-C, Parcels 3264 and 3265, from RR on the East Side and RR on the South Side to PUD. The parcels were acquired by the Power Authority to incorporate into the University's existing PUB property. The two parcels were the property of Niagara University prior to the construction of the Power Project, and are contiguous to the campus.

Parisi said he is working on a local law to change the official parcels from RR to PUD. A public hearing would be required before the Board could vote on the change. In the meantime, the Application for Rezoning could be sent to the Planning Board for their review. Parisi said he would introduce the Local Law at the next meeting.

Bax MOVED to forward the Rezoning Request from Niagara University to the Planning Board for review. Seconded by Ceretto and carried 5-0.

ABSTRACT:

Bax MOVED to approve the Regular Abstract of Claims Numbered 1366 to 1612 and recommended payment in the amount of \$222,874.28, plus a post audit of \$13,349.03. Seconded by Geiben and carried 5-0.

MINUTES:

Geiben MOVED to approve the minutes of 5/22/2017, RTBM. Seconded by Bax and carried 5-0.

DEPARTMENT HEAD CONCERNS:

Geiben asked what the status is of the local law on Solar Farms. Parisi said he is working on a local law. The Board extended the moratorium and there is still have time to come up with a law.

Clerk: The Deputy Clerk asked the Grant Writer if he reached out to Attorney Parisi regarding the Main Meeting Room grant. Rotella said he had not.

Finance: Blazick said she is monitoring the budget on an on-going basis. She is asking the Board to make three (3) adjustments to the budget. These are interdepartmental transfers. The transfers will not affect the budget in any way. The first is for the Ice Rink, transferring funds from contractual to personal services as employees are now paid thru payroll. The second is a re-classification of Workers Comp for the Police from the General B fund to W/C police. The third is a reclassification from Snow Removal PS to Out of Snow PS.

Bax MOVED the following budget revisions as prepared by the Finance Officer: Transfer \$13,072.00 from A00-7310-0403-4403 (Ice Rink Contractual) to A00-7310-0100-4403 (Recreation-Seasonal-Ice Rink PS); Transfer \$180.00 from B00-9040-0800-0000 (Workers Comp) to B00-9040-0800-0100 (Workers Comp-Police); and Transfer \$1,444.00 from DB0-5142-0100-0000 (Snow Removal Per Svc) to DB0-5142-0100-0100 (Out of Dept/Per Svc). Seconded by Geiben and carried 5-0.

OLD BUSINESS:

- a) Sanborn Business Association Portable Light Sign – Catalano said he is still working on this.
- b) Map, Plan & Report – Town-wide Water District: Lannon asked if the Board had any comments. Morreale questioned how it is being taxed. Would it be put on the property tax or on the water bill based on water usage? Broderick said that hasn't been determined yet. The Board needs to decide how it is going to be paid.

Atty. Seaman said the proceedings for the establishment of a Water District are set in the Map, Plan and Report which sets out how that's going operate. Basically, there are two components to how the Water district, once it is formed, will be funded. One Component will be water rates or water bills. The other component will be a real property tax either thru a benefit basis or an ad valorem tax. In the past, since the 70's, when the Town has done lendings for major water improvements, it's always been taxed to the entire Town, outside the Village, on an ad valorem basis. Unless the Town tells me otherwise, that's the route we're going – ad valorem basis. There will be a component to the Water District, like there is now. Everyone has a line for Water Improvement Area on their tax bill. The tax would be based on the value of the property. Everyone would pay their water bill based on their consumption. A special district is a taxing entity. That is a way to look at it.

Blazick said the Town has so many tax exempt entities that it would put an unfair burden on taxpayers. Because these entities use the water it should be based more on the consumption of water. Seaman said this could be done but they would have to raise water rates.

Broderick questioned using NYPA monies to offset the costs, as this is infrastructure improvements. Seaman has not looked into that.

Seaman provided a brief outline of the establishment proceedings. First, the Board has to establish Lead Agency for SEQR Review. The Environmental Assessment Form (EAF), prepared by Eng. Lannon would be sent to involved agencies. The involved agencies would have 30 days in which to comment. After 30 days, the Town would pass a Resolution determining certain findings, such as proposing a benefit or ad valorem basis. A public hearing would be held. After the public hearing, the Board would pass a Resolution to approve the Water District. Residents can circulate petitions on a Permissive Referendum. Assuming this is not done, the Town can establish the Water District.

Bax MOVED the following Resolution, for the intent to Establish Lead Agency for Water District Establishment Proceedings:

WHEREAS, the Town's Engineers, GHD, have prepared and filed with the Clerk a Map, Plan and Report dated May 22, 2017, for the creation of the Town of Lewiston Water District, and

WHEREAS, in accordance with the New York State Environmental Quality Review Act (SEQRA) and its implementing regulations, the Town must undertake an environmental review of the proposed action, and

WHEREAS, the Town's Engineers, have determined that the action is an "unlisted" action pursuant to SEQRA regulations as it does not qualify as a Type I or Type II action, and

WHEREAS, the Town has caused to be prepared a Full Environmental Assessment Form ("EAF") by its Engineers,

NOW THEREFORE BE IT RESOLVED, that the Town Board determines that the proposed establishment of the Town of Lewiston Water District is an "unlisted" SEQRA action, and be it further

RESOLVED, that the Town has determined that it will undertake a coordinated review of the proposed action, and be it further

RESOLVED, that the Town Board intends to be designed lead agency for such coordinated review and directs its Engineers and/or Attorney to distribute a copy of the EAF along with the notice of the Town's intent to be designated lead agency to all involved agencies, and give them 30 days to consent or object to such designation, with no response within the 30 days to be deemed a consent.

The foregoing motion was seconded by Ceretto and carried 5-0.

c) Broadcasting of Meetings: Broderick said he spoke with Paul Cassari, Superintendent at Lewiston-Porter. They do not have a program in place, nor are they ready to get one in place to broadcast meetings. Broderick said he, and Cable Chairman Abbondanza, will be meeting with NCCC in the morning. Broderick wanted to make it clear that he does not want a Town of Lewiston production company. "Some would make you believe I would take the advice of an 11 year old boy and buy \$9,200 worth of equipment. I don't think taking the advice of an 11 year old is the way you want to spend \$9,200. I want to make sure it is done right and done reasonably." Broderick clarified that the \$9,200 is not a grant; it is a loan of the Town's future revenues to use as it wants. It is a tax-free loan that must be paid back. Broderick said he hoped to have more information for the next meeting.

Broderick got a call from Mobilitie, LLC who want to know if the Town would be interested in them putting a 70' tower in the Town R.O.W. on Fairway Drive. Broderick and Geiben both said they were uncomfortable with this. Catalano said he sent the company a letter saying that if this was their intention, they would have to go thru the normal application process.

SEWER EXEMPTIONS:

Morreale MOVED to approve the following sewer exemptions on the following water bills: Laurendi, 4781 Lauren Court - \$85.60; Sylva, 701 Powell Lane - \$109.20; and Ponzi, 474 Morgan Drive - \$76.75, as a result of these homeowners having had repairs to their pool. Seconded by Geiben and carried 5-0.

V/LEWISTON LOCAL WATERFRONT REVITALIZATION PROJECT AMENDMENT:

Lannon said the Village of Lewiston intends to amend its existing Local Waterfront Revitalization Program (LWRP) and adopt changes to the program goals, policies and projects. The adoption of an LWRP is considered a Type 1 action pursuant to SEQR. As a Type 1 action under SEQR, coordinated review is required. Lannon said the Village is requesting Lead Agency under SEQR for amendment of the Village's LWRP. This is a procedural issue. If the Town has any comments, it can relay them to the Village.

The Town Board has no objection to the Village's request for Lead Agency. Lannon said he would pass this information on.

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: Sarah Kenton and Taylor Wolfe.

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

CONTRACT APPROVAL – TEAMSTERS 264 (TOWN HALL):

Geiben MOVED to authorize the Supervisor to sign the Tentative Agreement with Teamsters 264 (Town Hall). Seconded by Ceretto and carried 5-0.

PRIVILEGE OF THE FLOOR:

Rosemary Warren, Griffin Street, said back in July 2015, she asked for the money in the NYPA account for the rebates to the residents. It's over \$1,000,000. The residents have not seen any of that money. In a recent FOIL, there was a column labeled ECA. ECA is getting \$850 a month of our money, that we haven't received, that is being sucked from us. As I never heard of ECA, I did some research. I'm not saying they are not doing a good thing. I haven't read everything yet. Here's what it says – Martha. Per our agreement the Town by lateral settlement contracted with ECA – Energy Cooperative of America. On the bottom of the materials I receive, it said the email message and any other attachments are confidential. I should not have gotten this. It's hush-hush. It is only for the full-disclosure of the recipient – Martha. I didn't know we were spending \$850 month of our rebate money. This money is being sucked away and we haven't seen the rebate checks yet. I'm disappointed.

Amy Witryol, Lower River Road, commented:

We are about 95% of the way through the decision-making process on CWM. I would guess we are roughly 4 calendar quarters away from the conclusion.

In April CWM made a motion to marshall the proceedings. DEC staff supported CWM's motion. All three petitioners objected to what appeared to be a waste of time and money. Interestingly, CWM chose to reply only to my objection, and with the following preface:

“CWM notes that Witryol is a Petitioner with no known formal legal training and no demonstrated prior experience as a full party in a formal administrative adjudicatory hearing. Witryol's arguments demonstrate a significant misunderstanding of how a Part 624 adjudicatory hearing is conducted and when the issues are ‘adjudicated.’”

In May, the Siting Board ruled: “Ms. Witryol's motion...is granted.”

It's as if someone in this room had telegraphed CWM the comments I made to the Town Board in March. CWM made another scheduling request last Thursday which was again denied this morning. This seems a bit desperate. Keep in mind siting certificates require CWM prove several mandatory issues, any one of which would be fatal to CWM applications.

I make these points tonight because it's a local election year, and as has happened in the past, pressure will be placed on officials and candidates by political committees which raise money from CWM. As you may know, it is my belief Mr. Parisi's law firm has a potential for conflict of interest with CWM in this regard. Mr. Seaman may recall I raised this issue when he was in Mr. Parisi's chair a couple of years ago.

Finally, I note for the record that I have reached out to Mr. Geiben seven times in the past three weeks to discuss CWM. Mr. Geiben has declined any discussion and instead, insisted our communication be solely in writing. I hope he will reconsider very soon.

Steve Lyle, Lower River Road asked the Finance Officer for the files for the 2016 and 2017 Budgets. Blazick said they are in a large book and suggested he come to Town Hall. She would provide him with what he wants.

On a second point, Lyle asked at what point the water-line construction job would go out to bid. Lannon said he anticipates sometime in early January, 2018.

Geiben MOVED to enter into Executive Session to discuss potential litigation, consultation with attorneys and personnel issues. Seconded by Bax and carried 5-0. Time: 7:10 PM.

*Executive Session:

Present: Broderick, Bax, Ceretto, Geiben, Morreale, Conrad, Catalano, Parisi, Seaman, Mike Townsend and Blazick.

Issues Discussed: 1) Potential Litigation; 2) Employee Issue (Bax excused); 3) Potential Litigation; 4) Employee Issue and 5) Employee issue.

No Action taken.

Ceretto MOVED to exit executive Session and adjourn Work Session. Seconded by Bax and carried 5-0. Time 8:09 p.m.

*Minutes taken by A. Joseph Catalano, Esq.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk