

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Geiben, J. Jacoby & R. Morreale; Dep. Sup. B. Conrad; Chief F. Previte; Bldg. Insp. T. Masters; Finance Director J. Agnello; Budget Consultant M. Blazick; Attorney R. Parisi; Eng. R. Lannon; WPCC Ch. Op. J. Ritter; Highway Supt. D. Trane; Water Foreman M. Townsend; 15 Residents and Dep. Clerk C. Schroeder

The Supervisor called the Public Hearing to order, followed by the Pledge to the Flag and a moment of silent reflection. The Clerk read the legal notice into the record.

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 25th day of June 2018 at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Lewiston, NY, pursuant to the Code of the Town of Lewiston §306-4, Plat of a major subdivision located on Northridge Drive, SBL #101.12-1-21 through 101.12-1-41. At such public hearing, all persons interested who wish to be heard will be heard.

The Supervisor asked for public comment. There being none, the Supervisor said the public hearing will remain opened and re-convened at the July 23, 2018 Board Meeting.

Developer, Dominic Massaro, asked why no action would be taken this evening. Attorney Parisi said he spoke with the Town Engineer and the Building Department. There are still issues that haven't been dealt with. Prior to those issues being dealt with, he did not think those departments are in a position to recommend approval of this project at this time.

Massaro asked to speak to the issues. He has gone thru the process with the Planning Board, Engineer and Building Department for over a year to address the SWPPP and the concerns of the neighborhood with the drainage and buffer zones, etc. The majority of the issues pertaining to the plat and the drainage to the property have been addressed; however, there has not been given significant time to review everything that has been submitted. Everything has been addressed by LMK Realty. Massaro requested the Town Board grant a conditional-type of approval of the project based upon the information that has been submitted. The further delay of an additional month will impact the project negatively for a number of reasons: 1) He is trying to get the financing committed to the project. He cannot do so without Board approval; 2) There is legal work required in terms of the offering plan for the eventual HOA. He cannot submit that to the State for approval until the Town Board acts on the project; and 3) They cannot market or do anything in terms of advertising the project until the HOA is approved and everything is done. Massaro said he does not believe the issues at hand are of a major consequence. They need to be reviewed and be approved by GHD Engineering. Massaro again asked that the Board give approval based on what Marks Engineering has put together. He will provide all necessary documents to the Building Dept. and Town Engineer within the next week. Massaro said he is committed not to do anything in the field until Mr. Masters' approval on the building permits. We have to give him that information so he can approve that. Massaro is looking for approval to allow the preliminary work to proceed, i.e. to start the other work to commit to the financing and get the legal work done and move the project forward.

Geiben said the Board had a consensus a month ago that everything would be finalized before the Board would take a vote. We are not there. He would be willing to schedule a special meeting in the next week or so if need be to get it done, as long as all i's are dotted and t's are crossed. It is a great project and hopes it can move forward.

Geiben said the Board chose not to have a work session in July. We kept it open where we could have a meeting. I would rather do it that way than wait a whole month.

The Supervisor asked if all the issues would be addressed in two weeks. Massaro said they would. He would spear-head it personally. You have my commitment on that.

Broderick said he also wanted to work out the situation with the street lights. Massaro agreed. He would be willing to meet at everyone's convenience.

Parisi said it is his understanding that the HOA would maintain the drainage to the rear of the property. Massaro said it would be a private drainage system. Parisi then asked for a draft of the HOA documents that will be filed with the Attorney General.

Bax MOVED to continue the Public Hearing on July 9, 2018 at 6 PM, with possible action to be taken afterwards. Seconded by Jacoby and carried 5-0. Time: 6:15 PM

REGULAR TOWN BOARD MEETING

6:15 PM

AGENDA:

Additions: Geiben: Cable Commission; Bax: Sewer Refund Requests, Police Matters; Morreale: Power Authority/Street Lights; Parisi: Resolution on Proposed Solar Projects, Workers Comp Agreement, Fees Law; Executive Session: Consultation with Attorney re Personnel Matter (Grievance filed by Front Office Union).

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

At this time, the Supervisor introduced Dr. Abbondanza, who was instrumental behind the efforts in getting the meetings video-taped.

Abbondanza said this project began 3½ years ago with the signing of the agreement with Time Warner Cable, now Spectrum. It resulted in a 15-year contract with the Town. It provided for a 15-year, no-interest loan, to set up a recording. In the last year and a half, they worked to provide a comprehensive plan for providing the Town Public Education & Governmental (PEG) cable streaming technology. They also worked with NCCC's Digital Media Department for various support in terms of student access and student operation of the system. Abbondanza introduced his grandson, Rowan, who was instrumental in putting together specifications for the system currently in use. He also created a training manual for staff members in the Town to work with the system.

Geiben said if a resident wishes to view the meeting, they can tune into LCTV, Channel 1302/1303. To find the time of viewing they can go to LCTV.net, programming. Hopefully it will be streamed on the Town's website and You-Tube.

RESIDENTS STATEMENTS:

Rosemary Warren, Griffin St, said they had their first wedding at the Sanborn Farm Musuem Church. It was a big success. "Mrs. Sanborn" attended in full costume.

Warren then asked that no money be spent on anything that has to do with the Frontier House. That has to do with the Village. I don't want to hear that Greenway money may be used for renovations, etc. That would be one less project the residents of the Town of Lewiston would have access to. There is only so much Greenway money that can be used. The Village could pursue Greenway money themselves.

Paulette Glasgow, The Circle, commented many times on the need to make the competitive bidding process free from any conflicts or problems. In the past, the State has cited the Town for its absence for following the State's mandated competitive bidding process. Last month she spoke about the importance of Ethics within the competitive bidding process. Last month, the Board voted to seek three (3) written bids to replace the HVAC unit at the Senior Center. Town and General Municipal Law require that before any bids are received, an advertisement must be placed in the official newspaper of the Town, not only soliciting for bids, but documenting the date and time those bids would be open. Further, these laws specify this ad must be published five (5) days prior to the opening of the bids. This morning she requested, via FOIL, a copy of said advertisement. She was told there was none. The fact that NYS law was not followed concerns me. I'm wondering what will be done tonight with regards to the oversight?

Steve Lyle, Lower River Road, asked what the plans are for access to the meeting archives. Will the recordings be available for some period of time? Abbondanza said they are dealing with the process now. In dealing with PEG, there will be a number of rules, regulations, policies etc. NCCC will help establish these rules. The videos will be sent to the archives at LCTV. They will always have a copy.

Peter Tagliarini, Morgan Drive, said his neighbor is in the process of selling her home. If she did not sell her home within a month, she was going to go to Niagara University to solicit student renters. Tagliarini asked if there were any stipulations as to opening a house up to student housing.

The Building Inspector said it depended on how many people they put in the home and how long of a rental term is. He believed seven was the limit. He has had issues in the past with N.U. He is very aware of Tagliarini's concerns.

DEPARTMENT HEAD CONCERNS:

Police: Chief Previte said they had their regularly scheduled meeting with Niagara Wheatfield regarding the School Resource Officer (SRO). Having that officer was very beneficial to the school and the Town, he said.

Previte said his department has changed the way they do drug arrests. They have changed their policy on field testing because of the potency of the drugs that could be exposed thru the skin. They are looking into a device where it uses infra-red light for the composition of the substance. They will pursue a grant for that.

Building: Masters commended the Board for holding off on the subdivision approval for Northridge. It makes our job, as department heads, much harder when conditional approvals are issued. He thanked the Board for waiting until all issues are settled.

Dep. Supervisor: Conrad said he had a call from a resident about the Sunset Clause which is being considered as part of the Subdivision Law. She asked that it be considered for the PUD portion of the Town Law, as well.

Water: Townsend said there was a major water break on June 13. The Sisters of Sacred Heart Villa took the brunt of it. The basement completely flooded. A slide had to be removed from their playground. He suggested the Town purchase a new one for them. Our Lady of Peace and Mt. St. Mary's Daycare was without water also. Townsend thanked the Highway and Sewer Departments for the use of personnel and equipment.

Townsend said the waterline has been installed at Niagara University. They are waiting on NCHD approval to charge that line. Niagara University paid all expenses. Townsend said there is an old 16" waterline the Town bought from the City of Niagara Falls for \$1. It was a transmission line that fed all the way to Youngstown. That line runs right thru N.U. If that breaks, it would cause a major flooding issue for the campus. In the next few months, they are going to put in another waterline on the west side of the property. Eventually they will get off the 16" waterline and it will be abandoned. It will become N.U.'s waterline. The Town will have nothing to do with the campus waterline.

WPCC: Ritter said they are taking advantage of the nice weather and low flows to take some of the tanks off-line for re-hab work.

Highway: Trane said they have milled, placed binder and paved Walmore Road. They have four (4) more paving projects scheduled. He asked that notice be put in the newspaper for motorists to be mindful of highway workers and give them some courtesy on the road.

Trane said Suit-Kote Corp. came in and micro-paved Sara Ct., David Lane, Lauren Ct., Curtis Ct. N., Curtis Ct., Jason Ct., and Perry Ct. It is like sealing a driveway. It is made of fine stone and sand. It takes some time to cure and heal. The Highway Dept. will be going in and cleaning up some of the cul-de-sacs.

Next, Trane commented on the condition of Moore Road as being a disaster. Half of the road was done. The other half was neglected. Trane asked the Board for \$83,000 from H97 to stone chip the road.

The Finance Officer said there are funds available in H-97. \$83,000, along with everything else proposed with H-97, it would leave \$312,000 in the account at the end of 2018.

Geiben MOVED to transfer \$83,000 from H-97 to Highway Fund – Permanent Improvement. Seconded by Morreale and carried 5-0.

Broderick said he and Marjorie Maggard met to speak on behalf of an Eagle Scout Project to be undertaken by Fred Guard III. Maggard said the young man is a Boy Scout going for his Eagle Badge by cleaning up the Scovell Family Cemetery on Ridge Road. It is overgrown with brush and trees falling on top of it. She hoped the cemetery can be cleaned up for everyone to enjoy.

MINUTES:

Bax MOVED to approve the minutes of 5/31/2018, RTBM. Seconded by Geiben and carried 5-0.

ABSTRACT:

Geiben MOVED to approve the Regular Abstract of Claims (6/11/18) Numbered 1532 to 1719 and recommended payment in the amount of \$197,740.64, plus a post audit of \$974.27. Seconded by Bax and carried 5-0.

Geiben MOVED to approve the Regular Abstract of Claims (6/25/18) Numbered 1720 to 1910 and recommended payment in the amount of \$209,998.06, plus a post audit of \$15,605.57. Seconded by Jacoby and carried 5-0.

OLD BUSINESS:

Boards/Commission Vacancies: Broderick said he has a candidate for the Planning Board. He will present the application at the next meeting. Vacancies remain for Cable-1 and Board of Ethics-2.

Change Order – Ash Tree Removal: In the absence of the parks Director, the matter was tabled to the July regular meeting.

Petition – Zoning Law – 1495 Swann Road: Broderick said Lewiston Fire Co. #1 has suspended any and all shooting at the substation on Swann Road. The Fire Company wants to come up with some recommendations to allow their members to shoot there.

Light Request – 5152 Military Road: Morreale said this is a State Road. Geiben said the Town has a street light policy. There are two lights already there. He did not think it warranted another. No action taken.

PENDING BUSINESS:

Bingo Inspector: No applications have been received. Geiben said something has to change, such as the salary. It has to be fair and comparable to what other people are getting. We need to figure out some solution to this problem.

NEW BUSINESS: No new business submitted

SUPERVISOR:

1) Bike Run

A representative from the Niagara Gospel Rescue Mission said they would be holding a Bike Run on Saturday, August 11, 2018 from 9:30 am – Noon. The route would be from Youngstown to Lewiston, with a rest stop at Joseph Davis Park. They have approval from the Village of Lewiston, State Parks and Fort Niagara. They worked with the DOT, Region 5. This will be a small event with 100 riders. They do not require a DOT permit. They just need to abide by the rules of the road. The mission is to make awareness of the work being done at the Mission; more than a fundraiser.

Broderick MOVED to approve the Bike Run on August 11, 2018, Seconded by Bax and carried 5-0.

Parisi asked for a copy of the insurance certificate, naming the Town as additional insured.

2) Legal:

Parisi said the Town Board is in receipt of a proposed local law amending the Town Code to remove fees and allow the Town Board to set Town fees by resolution. This will allow the Town Board to act more efficiently and not have to pass a local law every time a fee needs to be changed. Geiben introduced the proposed Local Law.

Geiben MOVED to schedule a Public Hearing for Monday, July 23, 2018 at 6:00 P.M. Seconded by Bax and carried 5-0.

Parisi present a resolution for the taxing of solar energy systems. Currently, solar is exempt from taxing. It's up to an individual municipality to adopt one of three options: 1) Pass a local law saying that solar properties are taxed like any other property; 2) If a solar company comes in without that law in place and wants to put in a solar farm, the Town has sixty days to inform them that the Town wishes to enter into a PILOT Agreement, or in-lieu of taxes agreement with them; or 3) The Town could take no action whatsoever. In that case, the solar project would not be taxed at all. This resolution, if adopted, authorizes the Supervisor to provide notice to solar companies that the Town wishes to negotiate a PILOT agreement.

Bax MOVED the following resolution. Seconded by Geiben and carried 5-0.

WHEREAS, Real Property Tax Law §487 provides for a property tax exemption for certain energy systems, including certain wind and solar energy systems, and

WHEREAS, said section allows taxing jurisdictions, including the Town, to require property owners of property including certain solar and wind energy systems to enter into a contract requiring a payment in lieu of taxes (PILOT), and

WHEREAS, taxing jurisdictions must inform applicants within 60 days of receipt of notice whether a PILOT will be required, now, therefore, be it

RESOLVED, that the Town Supervisor is authorized and instructed to send notice to any applicant or property owner who gives notice of intent to install an energy system exempt from taxation by RPTL§ 487 that the Town will require a PILOT.

Parisi said the NYS Workers' Compensation Board has an on-line program where one can file and review documents of on-going workers' compensation cases. In order for the Town to utilize this program, it has to sign an agreement with the Workers' Compensation Board. Parisi has reviewed the agreement and approves it as to form. It would make the Confidential Secretary's job a lot easier if she could review and file documents on-line.

Geiben MOVED to approve the Workers Comprehensive eCase Agreement. Seconded by Jacoby and carried 5-0.

Geiben MOVED to direct the Supervisor to sign said agreement. Seconded by Jacoby and carried 5-0.

Engineer: Lannon asked for consideration of the issuance of a negative declaration for the Sanborn Sewer Extension, Saunders Settlement Road.

Geiben MOVED to approve Parts I, II and III of the EAF SEQR form, as presented. Seconded by Bax and carried 5-0.

Geiben MOVED to issue a Negative Declaration on said project. Seconded by Bax and carried 5-0.

Lannon then asked for authorization to allow GHD to advertise for sealed bids for the project. It would be submitted to the Health Department for approval, as well. The target date is to award the bid at the August 27th Board Meeting.

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

Finance: The Finance Director asked for a budget revision for repair of sewer pumps. The Sewer Department determined they will not purchase any office equipment and that budget could be used to cover pump repairs.

The \$20,000 funding received from the Niagara County I & I can also be used for repairs. \$10,000 of that funding would need to be re-classified to the contractual budget.

Geiben MOVED to transfer \$500 from SS3-8110-0200-0000 (South Sewer Admin Equipment) to SS3-8120-0400-0000 (South Sewer Sanitary Contractual). Seconded by Jacoby and carried 5-0.

Broderick MOVED to transfer \$10,000 from SS3-8120-0200-0000 (Niagara Co. I & I) to SS3-8120-0400-0000 (South Sewer Sanitary Contractual). Seconded by Bax and carried 5-0.

COUNCILMAN BAX:

1) Police: Bax referred to a letter of resignation from Officer Kyle Martin, effective June 11, 2018.

Bax MOVED to accept Kyle Martin's resignation, with regret. Seconded by Geiben and carried 5-0.

Chief Previte requested to carry 8 vacation days from 2017, to be used in July 2018, to cover a family emergency.

Bax MOVED for approval, with the understanding that it does not set a precedent. Seconded by Geiben and carried 5-0.

2) Sewer Refunds:

Bax noted a request for a reduction of the sewer portion of a water bill from Jonathan Schultz, Bronson Drive for filling a new in-ground pool with a total of 9,000 gallons of water.

Bax MOVED to credit Mr. Schultz \$35.45 of sewer charges. Seconded by Geiben and carried 5-0.

Katherine Bailey, Calkins Road, had a leak, after a water line replacement near her home.

Bax MOVED to forgive the sewer charges. Seconded by Jacoby and carried 5-0.

Richard and Linda Dunkle, West Street had an above-ground pool installed. The pool holds 8,200 gallons of water.

Bax MOVED to credit the Dunkle's \$32.50 of sewer charges. Seconded by Geiben and carried 5-0.

3) WPCC: Bax received a request from the WPCC declaring a 1999 Chevy Van (VIN# 1GCHG39R1X11453) as excess equipment and placed on Auctions International.

Bax MOVED to declare a 1999 Chevy Van as excess equipment and placed for auction on Auctions International. Seconded by Morreale and carried 5-0.

COUNCILMAN GEIBEN:

1) Senior Center HVAC Quotes:

Geiben said they received six quotes for the HVAC Replacement. He asked if they followed the Procurement Policy. Bax said he is unaware of the provisions that Mrs. Glasgow was referring to. He assumed it was GML #103, which sets the requirements for sealed bidding. In order to do the sealed bid procedure, the threshold is \$35,000 for public works or \$20,000 for purchases. Municipalities are free to set their own policy underneath those thresholds. Our policy requires three (3) written bids need to be sought. It doesn't say they need to be advertised.

Quotes were received from Gray Furnace Service - \$6,295.00; Grelak Mechanical - \$7,036.75; Steve's Heating & Cooling - \$5,400.00; H.W. Bryk - \$8,125.00; Greater Niagara Mechanical - \$8,450.00; and Mollenberg-Betz, Inc. - \$10,600.00.

Geiben MOVED to accept the low bid from Steve's Heating & Cooling to repair the HVAC at the Senior Center in the amount of \$5,400.00, Seconded by Bax and carried 5-0.

2) Environmental Secretary:

Geiben MOVED to compensate the Environmental Secretary at the same rate (\$75 per meeting) as the Chairman of said Commission. Seconded by Bax and carried 5-0.

Geiben said the Cable Commission will be meeting soon to review the next facet of the PEG agreement.

COUNCILMAN JACOBY: Jacoby said he attended the Village Trustee meeting when they discussed the Frontier House. It was not in an official capacity. He was not there to make any deals or promise any money. He personally attended as a liaison to the Historic Preservation Commission. He attended to see how it was being handled.

COUNCILMAN MORREALE:

1) Recreation Hires:

Morreale MOVED to remove Jack Bernstein as Recreation Aide from employment. Seconded by Geiben and carried 5-0.

Morreale MOVED the hiring of Sierra Wilson, Recreation Leader at \$11.00/hr, and Jack Kellick, Frank Previte and Bailey Staynor as Rec. Aides at \$10.40/hr. Seconded by Geiben and carried 5-0.

2) Street Lighting:

Morreale has been working with Tim Masters for the last year reviewing the street lighting in the Town. He received an email from the Power Authority. He and Masters went to a meeting with a number of other townships. The Town of Lewiston has 519 street lights that are leased. NYPA wants the Town to purchase the lights. Two-thirds of the Town's bill is for leasing & maintenance. One-third is for power only. If the Town owns them, the bill would be for the power only. It's a "no brainer", he said.

Morreale said NYPA will hold an Informational Meeting on Wednesday at 6 p.m. at the Town of Wheatfield as to what they are offering.

RESIDENTS STATEMENTS:

Jeff Bryk, President of H.W. Bryk & Sons, asked why their bid was not listed in the bid tabulation sheet for the HVAC Replacement. The Clerk said this was an oversight. The bid was received and opened with the others on June 21 @ 10 a.m. Their bid was \$8,450.00.

Paulette Glasgow, The Circle, said General Municipal Law§103, Art 5A says nothing about sealed or unsealed bids. She made the following statement:

One of your responsibilities is to provide oversight with regard to all Town policies to ensure compliance of the law is followed. One of those oversights is the responsibility to ensure that the competitive bidding process is handled and administered properly in accordance of the law. It doesn't matter what your policy says. State Law takes precedence. At the beginning of this meeting, I spoke about what is required in seeking competitive bids. GML§103 requires advertisements for public contracts be published in the official newspaper (Niagara Gazette); authorized to advertise for public bids whether they are sealed, unsealed or they come by pigeon. GML also requires that advertisements must state when and where bids received for a project will be publicly opened and read. Nowhere in this bid package does it state that. That's the law. Further, said advertisement is required to be advertised within five (5) days before the designated date for the opening of the bid. It is not in here. Finally, the law states that good faith should apply when seeking, receiving and awarding complete bids. Regarding the soliciting of complete bids for the HVAC for the Senior Center, a bid was misplaced. The question needs to be asked, was there compliance with the law. The answer is no. There were no advertisement in the newspaper. There was no ad that refers to the date, time or place the bids were to be opened. The time limit of five (5) days was ignored. For some reason, one bid was misplaced. There is a state law, Marcecall v Burcell; one would think because the law wasn't followed, any bids relating to this issue should be voided. The courts, because of this particular ruling, says the following, a municipality's failure to advertise for bids in an official newspaper is not merely irregularity but because of absence of the advertisement requirements would render all bids null and void. I would hope that you rectify this. That all these bids are null and void and you go out for other bids.

Before entering into Executive Session, **Geiben MOVED to add the following individuals to the Upper Mountain Fire Co. roster: Kassandra D. Bissell, Brandon Buster, Evelyn Coty, Rheannon Nasca, Jessica Norwich and Luke Wilson. Seconded by Bax and carried 5-0.**

Geiben MOVED to enter into Executive Session for purposes of discussing a personnel issue regarding a grievance filed by the Front Office Union. Seconded by Bax and carried 5-0. Time 7:40 p.m.

Executive Session

Present: Broderick, Bax, Geiben, Jacoby, Morreale, Conrad, Parisi, Agnello & Blazick
Issues Discussed: Personnel Issue regarding Grievance filed by member of Front office Union

June 25, 2018, PH / RTBM

Geiben MOVED to exit Executive Session. Seconded by Jacoby and carried 5-0.
Time 7:56 p.m.

Geiben MOVED to re-convene regular meeting. Seconded by Jacoby and carried 5-0.

Morreale MOVED to approve the agreement to arbitrate the grievance that was filed. Seconded by Jacoby and carried 5-0.

Morreale MOVED to authorize the Superviosr to sign the agreement to arbitrate the matter on the Town's behalf. Seconded by Bax and carried 5-0.

Geiben MOVED to adjourn. Seconded by Bax and carried 5-0. Time: 8:00 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk