

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, J. Myers; Deputy Sup. W. Conrad, Atty. A. Bax; Highway Supt. D. Trane; Police Captain J. Cane; Finance Director J. Agnello, Eng. R. Lannon; Water Foreman D. Zahno; Senior Center Director M. Olick; WWTP Chief Opt. J. Ritter; 19 residents, 2 press and Clerk D. Garfinkel

EXCUSED: Councilman R. Morreale, Bldg. Insp. T. Masters, Recreation Director M. Dashineau

Supervisor opened the meeting with the Pledge of Allegiance and a moment of Silent Reflection.

Clerk read the notice into the record:

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Town Board, Niagara County, New York, on the 28th day of June, 2021, commencing at 6:00 P.M., at the Town Hall, 1375 Ridge Road, Lewiston, New York to hear and consider the following property and property owner/applicant: Mary Ann Kilmer/SaturnPower / 4616 Townline Road (Tax Map No.90.00-3-32) Niagara County, New York

TO CONSIDER APPLICATION FOR A SPECIAL USE PERMIT AND SITE PLAN REVIEW for a ground mounted utility grade solar energy system on said premises.

All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing. A full copy of the application is available for review at the Town of Lewiston Building Inspector's office during normal business hours.

Dated: June 2, 2021

Supervisor invited residents to speak.

Patterson, Charlotte – Townline Road – Patterson purchased her home in October, across the street from the proposed farm. Had she known about the farm, she never would have bought. The property value is going to diminish. She has attended a few meetings that have been held to date. Patterson is against the Solar Farm, solely because of safety and decrease in property value.

Safety is a concern. There are no long-term studies regarding what solar panels can do to property, or the land. What if there were a fire? What about the seepage into the ground? Patterson has a two-year old and her safety and concern for her well being is first and foremost.

Fire is a big concern. Patterson doesn't know the exact details on what would happen with a fire, but knows they do sometimes let it burn or spray chemicals on it. This would be detrimental to her family's health.

Kloda, Roberta – Townline Road Kloda lives next-door to the proposed farm. It will wrap her farm on two sides, therefore is concerned if an environmental impact study has been performed.

Kloda has a Masters degree in environmental health and is curious how this will impact their farm. The solar farm sits uphill from Kloda, so whatever changes on their land will affect Kloda's land. It will change the ditches, how the property drains, everything that will run off their farm will enter Kloda's farm.

Kloda's farm their land for hay, with animals, 4-H competitions, duck eggs and pigs. The farm is being worked as a farm, and Kloda would rather not have it contaminated with all the things that could happen with the Solar Farm.

Kloda has worked enough construction sites to understand what it will look like when they start running trucks. They will not be able to open their pool that summer, dirt everywhere, house will get covered, won't be able to open the windows. The dirt will go all over the animals, they will be breathing that in. The children will be breathing this in.

When this is over, how will the property look for them? The surrounding resident will get stuck looking at this. Property values go down.

Kloda does not want this farm next to her. Put it somewhere else. Not next to all those that bought their land/homes for residential farming.

Wilson III, Ernest – Wilson does not think this is environmentally safe. Animals and children will suffer. Wilson is against the Solar Farm.

Meissner, Herbert – Albright Road – Meissner lives across the street from the proposed solar farm. What is seen now is an environment of great wheat growing, 500 to 1,000 geese come and settle in the pond, deer. The result of a solar farm is going to disturb the environment in that way. It will move deer to another location, the geese may not return to the area.

Environment includes more than just the air that we live in. It includes the things that we see. To go from what Meissner described as seeing daily to unsightly panels really would bother him.

Meissner asked what is done with the solar panels when they are done with them. The longevity can be 10 – 25 years. What do they do with them?

There are many other places to put the farms. Why on land that is fruitful, that can be used to produce things that we need every day of our lives? There are resources within our earth, that can be used for energy.

Mielke, Susan- Townline Road – Mielke lives on the west side of the proposed solar farm. Mielke is concerned with the safety of the farm. When the Solar company representative came to their home to speak about the farm, they were told that the Fire Co. has been given the equipment needed to handle a fire at the farm. Mielke's asked the Fire Co. and this is just them telling stories.

Mielke does not have a bonfire during the migration of the geese. What is 28 acres of solar panels going to do for them? There are deer, wild turkeys, all kinds of wildlife in there.

It is not known what contaminations the water run-off will have. Mielke asked the Solar company representative and he said he has studies he can provide, but she was never provided them. Plus, there were studies done in North Carolina not New York. Big difference, apples and oranges.

There is a main gas trunkline that runs across the back of these fields. What if there is a fire, that could end up being a disastrous event if they were affected.

They are saying they are going to provide a tree line shield. You look at any other solar farm and they haven't done this. They put bushes in.

Mielke understands it is their property, and they can do what they want. But when they are making a profit and the value of the surrounding properties goes down, that is wrong.

Broderick asked Perram to answer some of the resident's questions.

Perram, Jared – SaturnPower representative – Perram recapped the conditions for approval of the Site Plan and Special Use Permit from the Planning Board.

The system is constructed to adhere to all local regulations governed by Ags. & Markets
Receive DOT written approval - That is underway. DOT knows the project and has seen the plans. Once the project gets to a position of 100% plan set for a building permit, it is sent to the DOT for their approval.

Final review and approval of decommissioning plan – Perram is not clear if the Town Board has had the opportunity to review the narrative.

US Army Corp. of Engineers written approval – They have been to the site, and they are putting together the jurisdiction determination letter.

Approval by the Environmental Commission – Perram has meet with them.

Review an approval of the decommissioning bond – Perram is not sure if the Town is ready to approve the estimate or the actual bond.

Approval of Town Pilot – This is at a crossroads with the Town, IDA, School District and Niagara County.

Has an Environmental Impact Statement been completed? Perram said yes. Phase One study has been done, the SEQRA Study and the Water Pollution Prevention Plan.

In regards to a question on drilling, Perram said the posts will be pounded right in. There is no drilling, it is a straight in the ground application.

Kloda said they have been told they can't put a fence post within 100 feet of the gas line that runs along the back of the property. How is SaturnPower able to? Perram said he is in touch with National Fuel, they have given their write-off that it is 80 feet from the pipeline.

In regards to recycling of the panels, Perram understands that not a lot people know what to do with them. There are two (2) plants in the US that are actively recycling solar modules. They are also sent to developing countries to be used.

The Town Planning Board has asked SaturnPower to give a dollar amount on the anticipated recycle cost per solar module for the decommissioning of the system.

Kloda questioned who would make up the difference if the value changes from that of what was bonded. Perram said SaturnPower would. Kloda asked who, if SaturnPower isn't there. Perram said the financier would.

Perram said this has gone through the Town's engineers and they are in the business of looking out for the best interest of the municipality and they have given the sign-off cost.

Kloda asked Broderick who is responsible if the Bond is not enough. Broderick said the Town / Engineer follows a formula to get the dollar amount.

Broderick said there is a scrap value included in this, and the Town has requested to take that out. No one knows what they will be worth in 25 years, so if worthless, what would a decommissioning bond cost.

Lannon said you take the number of panels, assign them a value for removal, summed up; there is a permitting and inspection contingency, a legal contingency then it is rounded up. The initial amount is \$304,000. That is then inflated by 2½ % per year, for the life of the farm which is 30 years equals \$622,180 and that is the bond amount that needs to be submitted in full, on day one.

Kloda is questioning if that is not enough, who pays for it, where does that cost get sent to?

Lannon says in the event it costs \$700,000, he does not have the answer to that. It is his belief that the \$304,000 on day one is enough, based on the value it has been developed and it is in accordance with NYCERTA.

Bax believes it maybe the property owner.

Patterson said the property owner is going to benefit from this Solar Farm, but the Towns responsibility is to all of the residents. How can the Town grant them such a reward at the detriment of the surrounding residents?

Broderick said he has been paying close attention to the solar farms the Town already has. There are three houses being built across the street from the one on Swann Road. Williams Road, you can barely see it. Moore Road has good screening. Broderick does not see the detriment on the properties located near these farms.

Patterson said the first thing people will see when coming south down Townline Rd, is solar.

Jacoby said the farm on Swann Road was the first project brought to the Board. The Town was facing the prospect that the State was going to come in and say if you don't approve these, they will take over and approve them. The Town would lose all control, the Town then created the Solar Law, gathering information from surrounding municipalities and created the best law.

The Swann Road farm was put in, and it is not blocked and/or screened. The Planning Board took all this into account and are putting more restrictions on them, and more restrictions have been placed in the Law.

Perram said the screening on this farm is robust. Day one, installation of trees will range from 3 feet to 6-7 feet tall.

Broderick said the Board tried to do what is right, in the creation and update of the Local Law, because the Town can't just ban Solar Farms.

Broderick did not know there was a gas line on the property. This needs to be looked at before moving forward.

Mr. Meissner feels the property on Albright Road will be seen as property that is not as valuable anymore as the property they see when they come over the hill now. What can be done about this?

Perram doesn't believe there is anything that can be done to hide the farm when coming down the hill. His consideration is the residents living around the solar farm day to day, when they walk out the door. To treat it as its not an intrusion on the vision when coming in and out of your home.

Geiben MOVED to close the Public Hearing, Seconded by Jacoby and Carried 4 – 0. (6:47 pm)

AGENDA APPROVAL

Additions: Jacoby – Employee retirement; Geiben – Recreation hires

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

RESIDENTS STATEMENTS

Wright, Robert – Adams Circle – Wright distributed a map outlining a drainage issue he is having and is asking for help.

Wright has lived in his home for eight (8) years. There have been no issues until three (3) weeks ago, when there was a major rainstorm. The ditch behind his home filled, which was normal after a heavy rain, but with his house being low to his neighbors east and west of him, it filled up.

The ditch is filled with cat tails so the water filled up to the sump crock line. The water would leave the crock, the check valve would close and then there is nowhere for the water to go, so it comes out the bottom of the downspout and puddles at the foundation.

Highway Superintendent Trane was contacted and spoke to Wright. Trane was unable to tell Wright who owned the ditch.

Wright located the crock line, cleaned it out, and flushed it with hose water. There was flow, but it got to the point that it was then backing up again.

Wright spoke with Chris McAuliffe and Tim Masters looking for property lines and who owned what. Masters told Wright that he is 99% sure it was not Town property, but that of the Raby farm.

Raby did state that it is his property, but it the Town's responsibility to maintain the waterway.

Wright is here tonight asking for some help / guidance to address this water.

Trane spoke with Raby and the Town will go in and try to mow it. Town crews are in the middle of paving so it will be a while. Once it is dug out that will make the Wright property even lower.

Trane is finding that once a ditch is cleaned anywhere in the Town, it is not maintained/kept-up.

Broderick said the Town will work with Wright and the neighborhood on this.

DuMoulin, Christine – Teacher at Lewiston – Porter – For the last four months, DuMoulin has been working with students on Passion Projects. Zoey Woodhouse is heading a project to help renovate the Lewiston Dog Park to have shade and water and work on the entrance to the park.

Zoey could not attend but Ms. DuMoulin shared a video of her speech. Z. Woodhouse has raised over \$1,000 at a fund-raiser held at the Lewiston Tim Hortons.

Woodhouse's father is an architect and would like to work on the shade aspect of the project.

Trane said the water fountains have been ordered, being delayed in delivery, but should be here soon.

DEPARTMENT HEAD STATEMENTS

Town Clerk Donna Garfinkel

Garfinkel announced the Town will be sponsoring a Free Rabies Clinic along with the Niagara County Dept. of Health on July 10th at the Highway Garage from 9 am – Noon.

Back in April the Town Board suspended Hawking & Peddling in the Town. Garfinkel asked the Boards thoughts on continuing this or let it expire.

Myers MOVED to lift the suspension on Hawking & Peddling permits, Seconded by Jacoby and Carried 4 – 0.

Police Captain Josh Cain

For the last two weeks, the Police Dept. has been assisting with the Graduation Parades for Lewiston-Porter and Niagara-Wheatfield.

Water Foreman Daniel Zahno

Zahno requests permission to hire summer help for the Water Dept.

Geiben MOVED to hire Matt Johnson at \$15.00/hour, Seasonal work for the Water Dept., Seconded by Jacoby and Carried 4 – 0.

Senior Center Director Melinda Olick

Olick requests the hiring of a Seasonal laborer position to attend to the lawn and gardens at the Center.

Geiben MOVED to appoint Kayla Townsend – Seasonal Laborer - Senior Center, at a rate of \$15.00/hour, Seconded by Jacoby and Carried 4 – 0.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve the May 24, 2021 – Town Board minutes and June 7, 2021 – Special Work Session -Seasonal Hires minutes, Seconded by Myers and Carried 4 -0.

AUDIT PAYMENT

Jacoby MOVED to approve the Regular Abstract of Claims numbered 21-01362 – 21-01513 and recommend payment in the amount of \$232,750.29, plus a post-audit of \$13,614.49, and the Regular Abstract of Claims numbered 21-01547 – 21-01673 and recommend payment in the amount of \$866,161.81, plus a post-Audit of \$3,490.36, Seconded by Geiben and Carried 4 – 0.

Broderick called for a short break.

PENDING / OLD BUSINESS

Dedication of Oak Run Phase 4

Lannon discussed a letter dated May 24, 2021 from GHD summarizing the status of the dedication at that time.

Niagara County Health Dept. approved construction of water and sewer lines. Final Site walkthrough has been conducted and each department head has provided their approval.

Final Plat Map was originally filed in October, 2014, and a re-subdivision map was filed on March 11, 2021 to adjust the lot line along the pond. There has since been a deed restriction filed by the developer specifically to lots 23 & 24.

Project binder has been combined and provided to the Highway Dept. draft roadway dedication has been reviewed and submitted to the Town Attorney. Two-year Maintenance Bonds have been submitted and approved by the developer and Milherst Const. for the water and pavement.

The right-a-way has been graded and seeded and has started to take shape. Record drawings have been submitted to the Town. The developer has been coordinating with the Highway Dept. for the street sign installations.

Lannon recommends the Board considers dedication of Oak Run Phase IV.

Jacoby MOVED to approve the dedication of Oak Run Phase IV, Seconded by Myers and Carried 4 – 0.

NEW BUSINESS - None

SUPERVISOR BRODERICK

Upper Mountain Fire Co. roster additions

Broderick MOVED to add Daughtery, Rosco – McKoon Avenue and Raymond, Ariall – Hyde Park Blvd to the rolls as a member of the Upper Mountain Fire Co., Seconded by Jacoby and Carried 4 – 0.

Engineering

Riverfront Park Curbing Project – Award contract. Bids were received and opened on June 24, 2021. The following bids were received: Mark Cerrone, Inc. - \$187,255.00; 4th Generation Construction, Inc. - \$194,100.00; Pinto Construction Services, Inc. - \$204,685.00.

GHD has reviewed the qualifications and experience of low bidder Mark Cerrone, Inc. and have found they have performed similar work acceptably. GHD therefore recommends awarding the Riverfront Park Curbing Project Contract No. 2020-1 to Mark Cerrone, Inc.

Geiben MOVED to award the Riverfront Park Curbing Project Contract No. 2020-1 to Mark Cerrone, Inc., in the amount of \$187,255.00 and authorize the Supervisor to execute the contract, pending attorney approval, Seconded by Jacoby and Carried 4 – 0.

Waterline Status

The pathway is undergoing the final grading, with hopes to pave on July 6th. The last 6 service connections on Lewiston Road will be completed by June 30th. The base of landscaping is about 90% complete. The last connection at Lewiston Road and Mountain View Drive will be performed by the end of the week. An electrical service that was damaged on Lower River Road was being repaired today.

There is about 500 linear feet remaining, excluding the bore on Hoover Road, of new waterline, to extend out of the pavement to be done by July 14th.

The last bit of work is the case-cross at the railroad tracks. As part of the permit secured, CSX requires flagmen to be on site. There are no flagmen available until the fall. It could be another 10 weeks until this last 500 feet is installed.

The Board will need to entertain a no-cost time extension to embrace the delay by CSX.

Jacobs gives D. Zahno a shout-out for the great response to a few neighbors that were having an issue. Broderick and Zahno give a shout-out to the GHD field guy, Jim Milks, for his great work.

Finance - Budget Transfer - Agnello requests the following 2021 budget revisions:

Transfer \$10,317.00 from Highway Garage Contractual - A00-5132-0400-0000 to Highway Garage Equipment - A00-5132-0200-0000 to cover the purchase of a lift and copier/printer.

Transfer \$2,350.00 from Engineering PIP Revenue - B00-1000-1589-0700 to PIP Engineering Contractual - B00-1440-0440-0100 to cover the Engineering fees paid by applicants.

Transfer \$4,000.00 from Vehicle Insurance - B00-1910-0400-0000 to Police Equipment - B00-3120-0200-0000 to cover the purchase of I.D. Card System package.

Transfer \$10,000.00 from Parks Personnel - B00-7110-0100-0000, to Parks Equipment - B00-7110-0200-0000 to cover the purchase of two drinking fountains and other equipment for the Dog Parks.

Geiben MOVED to approve the 2021 Budget transfers as submitted, Seconded by Jacoby and Carried 4 – 0.

COUNCILMAN GEIBEN

Recreation Director Dashineau requests the hiring of Summer Recreation employees.

Geiben MOVED to approve the following employees for the Town Recreation Program: Bernstein, Jack – Recreation Leader - \$13.00/hour; Perreault, Kendall – Recreation Aide - \$12.50/hour and Short, Nicole – Recreation Leader - \$13.00/hour, Seconded by Myers and Carried 4 – 0.

Recreation Director Dashineau requests the Board authorize Supervisor Broderick to sign documents and contracts pertaining to the purchase and construction of new Playgrounds at Pletcher Road and Sanborn Park with Gametime, Inc, and all of its subcontractors and agents.

Money for these projects has been approved by the Greenway and Standing Committee's and transferred to Town accounts.

Geiben MOVED to authorize Supervisor Broderick to sign the contract with GameTime Playcore Company for the NY Lewiston Town of Pletcher Road Park Option 2, in the amount of \$435,169.71, and the contract with RubbeRecycle for NY Lewiston Town of Pletcher Road Park RR in the amount of \$130,310.00, Seconded by Jacoby and Carried 4 – 0.

The Board did not have the numbers or contracts for Sanborn Park.

COUNCILMAN JACOBY

Kilmer Solar Farm Decision – tabled

The Board received a letter from Town Assessor Linda Johnson, stating that Heidi Seguin, Real Property Appraisal Technician, has submitted her letter of retirement effective July 31, 2021.

Johnson is requesting approval to fill the position by contacting the Niagara County Civil Service Agency.

Jacoby MOVED to approve to fill the position by contacting the Niagara County Civil Service Agency, Seconded by Geiben and Carried 4 – 0.

Jacoby then read H. Seguin's letter. "I am writing to inform you of my plan to retire effective July 31, 2021. I am grateful for the opportunity to have worked with you over the past six and three-quarter years. Please let me know if I can be of any assistance during this transition."

Jacoby is sad to see Heidi go. She has been here longer than him. Jacoby is happy for her and wishes her a happy and successful retirement.

Jacoby MOVED to accept Heidi Seguin's letter of retirement, Seconded by Geiben and Carried 4 – 0.

COUNCILMAN MORREALE – Excused – Broderick addressed the items

Geiben MOVED to forgive the \$124.50 sewer charge for Adelizi – 4374 Autumn Lane, Seconded by Jacoby and Carried 4 – 0.

Geiben MOVED to forgive the \$79.75 sewer charge for Catanese – 4435 Creek Road, Seconded by Jacoby and Carried 4 – 0.

Geiben MOVED to forgive the \$37.33 sewer charge for Lands – 2929 Elm Street, Seconded by Jacoby and Carried 4 – 0.

Myers MOVED to forgive the \$114.50 sewer charge for Sylva – 701 Powell Lane, Seconded by Jacoby and Carried 4 – 0.

Jacoby MOVED to forgive the \$105.41 sewer charge for Waechter – 4791 Oakridge Lane, Seconded by Myers and Carried 4 – 0.

COUNCILMAN MYERS

There will be a ribbon cutting ceremony at a new restaurant being opened on Ward Road tomorrow.

Myers has been working with Attorney Bax on a 5G Law. Bax hopes to have a draft by the July meeting. They are researching local municipalities.

RESIDENTS STATEMENTS

Geiben MOVED to adjourn the meeting, Seconded by Jacoby and Carried 4 – 0. (7:42 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk