

PRESENT: Supervisor S. Broderick; Councilmembers A. Bax, W. Geiben, J. Jacoby & R. Morreale; Dep. Sup. W. Conrad; Police Chief F. Previte; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Atty. B. Seaman (6:30 PM) Eng. B. Lannon; WPCC Ch. Op. J. Ritter; Water Foreman D. Zahno; Highway Supt. D. Trane; Parks/Rec Director Dashineau; Historian M. Maggard; 2 Press; 5 Residents and Dep. Clerk C. Schroeder

ALSO PRESENT: Environmental Commission: Chairman J. Wolfgang, Vice-Chair J. Allen & B. Davy

The Supervisor called the Work Session to order, followed by the Pledge of Allegiance and a moment of Silent Reflection.

At this time, Councilman Geiben read a Certificate of Appreciation for Ronan Abbondanza in recognition and appreciation for the many hours of service provided to the Town of Lewiston in planning and implementation of the recording and airing system for Town Board meetings; as well as volunteering to record, edit and upload meetings until arrangements are completed with NCCC to provide an intern from its Digital Media Program to assume those responsibilities. The Lewiston Town Board recognizes Ronan's volunteer service to the community with a Certification of Appreciation.

AGENDA: Additions: Broderick: Police Dept. Generator.

Bax MOVED the agenda, as amended. Seconded by Jacoby and carried 5-0.

ABSTRACT: Morreale MOVED to approve the Regular Abstract of Claims Numbered 453 – 624 and recommended payment in the amount of \$201,825.54, plus a post audit of \$14,244.83. Seconded by Bax and carried 5-0.

MINUTES: Bax MOVED to approve the minutes of 02/25/2019, RTBM. Seconded by Jacoby and carried 5-0.

DEPARTMENT HEAD CONCERNS:

Police: Chief Previte provided a list of items to be declared as surplus and disposed of as per Town policy thru Auctions International. Another Active Shooter drill will be held on Friday at Niagara Wheatfield S.D; involving multiple agencies.

Lastly, Previte said the drug-drop off receptacle at the Police Dept. is one of the busiest in the County. They collect a lot of unwanted medications. Previte said he wants to revamp their policy to offer police pickup of medications for residents who are house-bound or disabled. It would have to be pre-scheduled. It will be a once a month pickup on the 15th. Previte said he will be enacting this by the end of the month.

Previte was asked to address this at the Senior Center to make seniors aware of this program. The Clerk was asked to note this in the "Clerk's Corner".

BAX MOVED to request that the items noted in the four page memo from the Police Chief, printed 3/11/19, be declared excess and authorized him to post same items on Auctions International. Seconded by Morreale and carried 5-0. List on file in Clerk's office.

Engineer: Lannon said they have been requested to look at the condition of the Outfall Building on the Riverfront Park's property. They are in the process of securing a quote for a sub-contractor to do a lead & asbestos survey as an initial first steps in evaluating the building. Hopefully they will have a quote for the Board to consider at the RTBM.

WPCC: Ritter asked to declare a forklift excess equipment and transfer to the Highway Department for a small monetary consideration. The Highway Supt. said he would take it for \$500.

Bax MOVED to approve the sale of the forklift from the WPCC to the Highway Department in the amount of \$500. Seconded by Geiben and carried 5-0.

Ritter to supply details (year/make/model) of the forklift to the Finance Director for insurance purposes.

Highway: Supt. Trane asked for a transfer of \$100,000 from H97 to the Highway Equipment line for the purchase of a new payloader. They currently have two payloaders purchased in 2005. They are looking to get rid of one and will replace the other in a few years. He has cleared this with the Finance Director.

Geiben MOVED to transfer \$100,000 from H97 to Highway Equipment for the purchase of a new payloader for the Highway Department. Seconded by Bax and carried 5-0. Trane said the payloader would be purchased under State bid.

FINANCE: The Finance Director submitted letters requesting approval to process seven budget adjustments.

1) A revision to move \$19 to Supervisor Admin. Allocation 2018 (A00-1220-0100-0002) from Supervisor Personal Service (A00-1220-0100-0000) to unused Administrative Allocation Expenses.

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

2) A revision to move \$5,971 to Budget Office Admin. Allocation 2018 (A00-1310-0100-0002) from Jr. Accountant Personal Service (A00-1310-0100-0001) to cover unused Administrative Allocation expenses.

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

3) A revision to move \$203 to Recreation Ice Rink Contractual 2018 (A00-7310-0403-4403) from Recreation Ice Rink Personal Service budget (A00-731-0100-4403) to cover Ice Rink Contractual Expenses.

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

4) A revision to move \$684 to Parks Contractual 2018 (B00-711-0400-0000) from Parks Equipment budget (B00-7110-0200-0000) to cover Parks Contractual Expenses.

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

5) A revision to move \$2,835 to 2018 B Fund Unemployment (B00-9050-0800-0000) from B Fund Contingency (B00-1990-0400-0000) to cover Parks Department personnel eligible for unemployment insurance expenses.

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

6) A revision to move \$56 to 2019 Highway Workers' Compensation (DB0-9040-0800-0000) from General Repairs Contractual (DB0-5110-0400-0000) to cover additional Workers' Compensation expenses. The Employers' Liability Premium invoice was higher than what was budgeted.

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

7) A revision to move \$165 to 2019 Water Workers' Compensation (SW1-9040-0800-0000) from Water Admin. Equipment (SW1-8310-0200-0000) to cover additional Workers' Compensation expenses. The Employers' Liability Premium invoice was higher than what was budgeted.

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

Riverfront Park

The Supervisor asked the Engineer to touch base on the Riverfront Park Site Characterization Report prepared by GHD that was submitted to the Board last month. Engineer Lannon introduced Kathy Galanti, Environmental Scientist and author of the report, to give a brief overview of the report.

Galanti: GHD had been provided a copy of the Krehbiel Associates Report dated November 1, 1978. We did review that report prior to initiating any of our sampling programs. In their report, they summarized how back in the late 70's two samples had been collected from the intake/outfall pipes; one from each pipe. Those samples were analyzed for metals and total halogenated organics. The total halogenated organics test had a stipulation that if there was anything detected greater than one part per million (ppm) they would then have to do additional sampling to see what exactly was contributing to that. That ppm was not at that time, nor is it now, a regulatory guideline; it was an arbitrary number.

The supplemental testing of those samples revealed PCBs at concentrations of 2.1 ppm to 2.6 ppm, and the pesticide lindane at concentrations of .08 ppm to .14 ppm. By comparison, criteria for those same compounds PCBs is 1 ppm, lindane is 1.3 ppm. If you were to compare directly with today's concentrations, lindane would be well below. The PCBs would be slightly above the current recommended soil clean-up criteria.

In some of the conversations, there's been talk of hazardous waste. Hazardous waste has a very specific definition. You either have to have a chemical product that is discarded as a waste – a bi-product from a specific manufacturing procedure or it has to be toxic for certain compounds of certain thresholds. For PCBs in NYS to be considered hazardous is 50 ppm; 25 times over what we have and what they saw back in 1978. For lindane, the concentration would be 50 – 100 times more than what the concentrations were back in the 70s that they found in the outfall pipes. As I say, the wording 'hazardous waste' has been used. If it was not hazardous then, it is not hazardous now. The other compounds that they had in the samples were metals. Those had varying concentrations. Nothing that would be deemed hazardous, but there was soil chemistry there.

Based on this limited knowledge that we had from the Krehbiel Report, we didn't exactly know where the lagoons were in relation to the property. We did a representative sampling and selected 12 boring locations. We set those out on a staggered grid pattern. That gave us a good cross-section of the property. We collected samples from ground surface down to a maximum depth of 11-ft. At each of those locations, we took a composite sample from about half a foot to a foot below ground surface down to the full depth of the boring. In most cases it was usually the zone between one-ft and eight-ft below grade that was sampled and sent to the laboratory. We did those analyses and found some minor background – very, very low level concentrations well below the criteria of PCBs, pesticides, etc. The only thing that we did have was primarily arsenic for the metals. NYS Part 375 criteria have stipulations for soil clean-up recommendations. The key is you can leave material greater than the criteria in place provided that the 0 to 2-ft contact zone, where you might have public contact with material, meets the criteria. We sampled those half dozen locations where we had the elevated arsenic. Of those locations (SB2) and (SB9) exceeded the Part 375 criteria. Those located would have to be managed. If you have impacts within those upper 2-ft, the key is avoiding any public contact. You can either put another 2-ft of clean material on top of it or you can put a parking lot over the top, a roadway, a building or a concrete slab over the top of it. We felt those two spots SB2 and SB9 could be managed without any removal of the material, managed in place and incorporated into the design of the park.

We prepared our report, provided it to the Town who sent a copy to the NYS DEC Region 9. The DEC reviewed the report and essentially had no comments. Their only comment was there is nothing that would cause any concern that would require a Regulatory Program. At this point, we feel the site is well characterized.

The Supervisor asked for Board comments.

Morreale is concerned with how the drilling was done. He would like to see additional drilling in the lagoons on the sides and the front toward the River. Nothing was done going forward as far as drainage. That is where the underground chemicals would be.

Galanti said that due to the absence of chemistry they did not see any point in looking at groundwater. It was not a median of concern.

Morreale said he would still like to see more testing. Jacoby is in complete agreement. He would like at least three additional borings tested on the west end between the lagoon and the water's edge. In the last 40 years since the first study, if anything were to be leaching out in the ground, the natural flow of water would take it to the River. That is where the majority of people would be gathering – near the waterfront. I would like to be able to say to the people we did all the appropriate testing. This would be more than adequate if we do this next series of testing. Jacoby said he would like the Environmental Commission to review this.

Geiben said the term “more testing” is vague. How could we be more specific on what we're looking for? Five more borings at a certain depth? I want to be complete. I want to make sure this is all resolved. Let's not take any action tonight. Let's ask for more testing. What should we be asking for?

Galanti said concerns were brought up about the area between the lagoons and the River. They could do a maximum of five bore holes. They will get a proposal and bring it back to the Town.

Geiben asked if a specific resolution stating the amount of money is necessary.

Broderick said the Board does not want to put a park on property where it shouldn't be. If we found something there, we will nix the project. At least we'll have documentation should future Boards wish to utilize that property. We know we have done our due diligence where nothing should be there. Having said that, Broderick said he would support the Board's decision for more testing at the site which would cost roughly \$12,000 - \$15,000 for six borings. Lannon will need recommendations as to where the Board would like the additional testing.

Bax asked if it would make sense to involve the DEC and DOH to get a consensus for additional testing. They are the experts. Broderick said the DEC already signed off.

Resident Amy Witryol countered from the audience to request they look at the Plan before going forward. Broderick said she could make public comment at the end of the meeting.

Galanti said the DEC only does so much. The site does not qualify for a Superfund; it is not a Brownfield site. They don't have a real mechanism to be fully engaged in the process. They would do a courtesy review. “They are not the dirt police”. As long as we follow the guidelines and the concentrations are within appropriate ranges, we are able to manage the risks on site according to the regulations.

Broderick said they could approve GHD to do more testing, working with the Board on the specific locations, in the lagoon and around the outer edge. Atty. Seaman said no action would be needed tonight. The Board could ask the Engineer to go back and prepare a plan as to where the testing should be done and present the plan at a future meeting for approval or have it revised.

Broderick said the Environmental Commission will be looking over the Site Characterization Report at its next meeting (03/12/19). GHD would not be available to attend. That is why he invited the Commission to attend the meeting tonight.

Moving forward Broderick said he would ask for further testing from GHD Engineers.

Environmental Commission member James Allen asked if the sampling was done at various times of the year. Migration of chemicals is different in the Spring when it is wet and the snow is melting vs. late Summer when it's dry.

Galanti said this was just straight forward site characterizations of soil testing. Initial testing was done in July/August. Supplemental testing was done in October. Between July and October there were three rounds of sampling. Again, concentrations were very low all across the grid.

Chairman Wolfgang said the Commission has been discussing this for about five months. He questioned if they bored further than two feet and has a representative from the DEC spoken to the Town concerning this project?

Galanti replied to Wolfgang's comments. Every one of the 12 locations was sampled the full vertical depth of the boring. The only thing found in the samples was arsenic. They went back to ensure that the top two feet had no chemistry. That was explained in the characterization. As for the DEC Report, Galanti said there was none. The only thing they provided was the lagoon construction drawings that were part of the permit from the 1980's. Lannon read a letter from the DEC to the Town Supervisor, dated 2/5/19, regarding the Characterization Report dated 1/10/19: NYS DEC has received and reviewed the referenced report. The data results indicate that this property would not qualify for the NYS Superfund Registry. Signed by Stanley Radon, Professional Geologist, DEC Region 9.

Wolfgang said the project needs to come before the Environmental Commission. They have concerns. They have an attorney on the Commission who has a lot of questions. Wolfgang said the Commission is concerned with putting the public on the property without knowing exactly that there is nothing buried there that would harm them.

Broderick said that is the Board's concern to. That is why they are asking for more testing.

STREET LIGHT CHARGE – BIG VISTA/LITTLE VISTA:

Morreale received an Estimate of Annual Streetlight Charge for Big Vista/Little Vista Street lighting. This is for a 100-Watt High Pressure Sodium lamp, Luminaire, Cable on a 12' DE Fiberglass Standard. The total estimate annual cost is \$283.39.

Lannon said if the Board decides to move forward with the installation of the light, he would need to submit a certified resolution to National Grid. They will then put this in the pipeline for design and construction.

Geiben said he is in favor of the street light but would like to take no action and wait for the new pole and LED lighting. Morreale said they would have to wait for the NYPA buy-out program, which is dragging its feet. He anticipated another 6-8 months minimum.

Atty. Seaman said the Town would have to buy the pole from National Grid if it wants to replace the light with an LED luminaire.

Geiben MOVED to authorize National Grid to install one (1) 100-Watt High Pressure Sodium Lamp and 70/100-Watt Traditional luminaire at the intersection of Big Vista/Little Vista in the Town of Lewiston at an annual cost of \$83.39. Seconded by Morreale and carried 5-0.

WPCC SLUDGE DEWATERING BIDS:

Bax said sealed bids were received for WPCC Sludge DeWatering Improvements for General Construction, Heating & Ventilation and Electrical.

Bax MOVED to approve Quackenbush Co., Inc. as the General Construction contractor for Sludge DeWatering Improvements at the WPCC in the amount of \$577,000.00. Seconded by Jacoby and carried 5-0. Other bids included STC Construction, Inc. – \$642,800.00 and Hohl Industrial – \$648,300.00.

Bax MOVED to award the contract to John W. Danforth for Heating & Ventilation in the amount of \$64,300.00 for the Sludge DeWatering Improvements at the WPCC. Seconded by Morreale and carried 5-0. Other bids included Quackenbush Co., Inc. – \$87,900.00.

Bax MOVED to award the Electrical Contract to Ferguson Electrical in the amount of \$56,700.00 for the Sludge DeWatering Improvements at the WPCC. Seconded by Morreale and carried 5-0. Other bids included CIR Electric – \$57,850.00; Frey Electric – \$59,000.00; and O’Connell Electric Co. – \$93,253.00.

Funding is allocated from H32 – money bonded for upgrades at the Plant.

Bax MOVED to authorize the Supervisor to execute the three contracts, pending Attorney approval. Seconded by Jacoby and carried 5-0.

WPCC CONFERENCE:

Ritter requested to send four (4) people to the Greater Buffalo Environmental Conference on Tuesday, March 19th, 2019 at a cost of \$135.00 each. (\$540.00). Funds allocated from SS1-8110-0400-0000. The G.B.E.C. is an informative series of seminars about waste water treatment and the technologies used throughout the industry, with special emphasis on Western New York. The Conference offers 6.0 professional credit hours. Participants would include: Jeff Ritter, Ryan Treichler, Peter Fortino & Lee Allan.

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

SANBORN FIRE COMPANY ROSTER:

The Sanborn Fire Company herewith submits for active membership in said Fire Company the name of: Katelyn Hoover, 6030 Hoover Road, Sanborn. The prospective member is a resident in the Town of Wheatfield but is employed in the vicinity and is available to render active service as a volunteer fireman. The percentage of non-resident members will not exceed 30%, as provided by law.

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

POLICE MATTERS:

Broderick said there was a generator issue at the Police Department and deferred to Chief Previte.

Previte said when the power went out in their area last week. Lewiston-Porter dismissed students early. The Police generator kicked in as it was supposed to but did not transfer any of the power. He said the power transfer switch went bad. They called a technician to take a look at it. Because of where it was originally installed, the conduit went into the top of the unit where it absorbed a lot of water. The conduit should go into the side or bottom. The cost is estimated to be around \$5,000 - \$6,000 to replace the power transfer switch. It is a \$30,000 generator purchased with grant money. They lost all radio contact, telephone communication and power of the server.

It is a liquid cooled industrial generator. Several contractors could not provide a quote to replace the switch because they are not certified for that type of generator. Previte said he is asking for Board's approval to accept the lowest bid to replace the power transfer switch and correct the conduit to move to the side or bottom, subject to the Attorney's approval. Once the low bid is submitted, he will forward to the Seaman.

Bax MOVED to authorize the Police Chief to obtain three quotes, as per the Procurement Policy, and to accept the lowest proposal upon approval by the Town Attorney. Seconded by Morreale and carried 5-0.

STATEMENTS BY RESIDENTS:

Amy Witryol: I don't think I have enough time to go thru all the omissions in the report that you just heard. I have two basic concerns. First is the quality of the sampling. There was no sampling in the Analysis Plan despite the fact that I asked Mr. Broderick at the Greenway Meeting back in September three times if there would be a sampling and analysis plan prepared before sampling was conducted. The other concern I have is what seems be omission or concealment of information from the Board, the public, the Greenway Commission and even the DEC on this project. Again, I don't have time to go into detail tonight but in light of Mr. Geiben's comment two weeks ago that we're talking about sill that came out of the river in the 1970's, this Krehbiel Report indicted the sampling that was done at the time that Kathy Galanti reviewed with you. Today's DEC indicted that sampling because of the way it was collected. The analysis of that sampling was limited because of the expense at that time.

Let me read you from that 1978 Krehbiel Report, that I sent to Mr. Lannon and the Board on June 4 and which Kathy Galanti sought to summarize. "It appears that chemical solutions were illegally dumped into this structure over a period of time and that because of the relative low velocity of liquid passing through these large pipes, that the material settled out in the 2 - 60" pipe rather than carried into the River. Based on our present knowledge, the point at which the chemicals were introduced into the outfall structure can't be determined. The illegal dumping could have originated in the intake well, pump building, along the 42" line or at the old ordinance works, which is now the site of SCA, formally Chem-trol (now CWM). Using the proposed schemes for additional testing, it is anticipated that the extent of the contamination can be more closely identified."

It looks as if already \$35,000 in public money has been invested. We never got a sampling and analysis plan. This Characterization Report doesn't even comply with DEC regulation, as to the due diligence. If we get more sampling in areas that Councilmen Morreale and Jacoby propose, given the way the sampling was conducted, you're still going to get sampling that either doesn't characterize the contamination or is diluted. I think Mr. Seaman's remarks of caution were very wise. Let's stop and figure out what the next step should be, whether or not the Town should even invest more money, and find something that could be very expensive to clean up. Once you find it, you can't say you're going to leave it alone and turn away. You're going to have the liability if you do sampling that does, in fact, trigger any sort of Brownfield requirements in the State to clean up that site. I'm all in favor of doing the characterization if you want to spend the money. It would be great to clean up that site if there's a problem. It would be great to find out there is not a problem. I'll leave it up to the Environmental Commission to weigh in. I have zero confidence in the Characterization Report that did not comply with the standards you used before you even get the test results and then ask the same firm that's telling you the site is safe and appropriate to go back and do more. I would ask the Board to consider having an independent firm that specializes solely in Brownfield sites or find some agency that will look at a sampling and analysis plan for you and determine whether or not it fully characterizes the site. All of the Part 375 Requirements that have been quoted to you are for remediation of sites that have been fully characterized and what was done here does not fully characterize the contamination. Any reasonable person can go to that site, look at the size of the berm and see how much larger it is than the permit construction footprint that was overlay in the GHD Report and say my Gosh, virtually the entire park is going to be atop this burial. Krehbiel wanted to know in 1980 what is down there. It should be fully characterized. You have to decide, with your Counsel or an experienced Brownfield

counsel, whether you even want to go on any further. Is it worth it? Two Boards before you in the past 20 years decided no. They thought it was too much risk to the Town. In any case, I look forward to going through the report in more detail. There are many, many questions and flaws in the report. There were many more detections than were conveyed to you tonight.

I would caution the Board that any hearsay, if not very carefully accompanied in writing from the DEC and the DOH, I would encourage you to get that. The letter that Mr. Lannon read you was a comment from DEC only on the data they looked at, not whether or not it fully characterized the lagoons; not whether or not the protocol was appropriate. Not whether or not composite samplings would dilute the detection that you were looking at and measuring against those standards.

All the items and all the questions would take a good hour. That is a good reason to send it thru a committee that looks at sampling and analysis of plans, as Mr. Allan and Mr. Wolfgang have over many years.

Paulette Glasgow, The Circle, asked the Environmental Chairman how long they have been discussing the proposed Riverfront Park site. Wolfgang answered five months. Glasgow then commented: In five months we couldn't plan a meeting with Mr. Lannon to attend the Environmental Commission to answer their questions? I find that hard to believe. I would hope that somebody from GHD shows up at this meeting tomorrow night.

Jerald Wolfgang, Developer of the French Landing Subdivision said one of their light posts was knocked down. He filed a report with the Town. Residents in the area are concerned with cars speeding thru that section. The light post is on a curve. He wanted the Board to be made aware of this.

Jacoby MOVED to adjourn. Seconded by Morreale and carried 5-0. Time: 7:15 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk