

**PRESENT:** Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax, Geiben, Jacoby and Morreale; Finance Officer Agnello; Martha Blazick; Attorney Parisi; Engineer Lannon; Building Inspector Masters, WWTP Chief Opt. Ritter; Water Foreman Townsend; Police Chief Previte; 2 Press; 17 Residents and Clerk Donna Garfinkel

Supervisor opened the meeting with the Pledge to the flag followed by a moment of silent reflection.

#### AGENDA APPROVAL

Additions: Bax – requested to move his agenda up to allow for him to leave for an appointment; Parisi – Executive Session - Pending litigation - Smith vs. Town and Police Union Contract.

**Bax MOVED to approve the agenda as amended, Seconded by Morreale and Carried 5 – 0.**

#### RESIDENTS STATEMENTS

Warren, Rosemary – Griffin Street – Again encourages the Board to address the Cold War Exemption

#### DEPARTMENT HEAD STATEMENTS

Chief Previte – Previte suggested the Board consider Active Shooter training for Town Employees at all buildings.

Geiben suggested they be held at each location. This will allow a better observation of what may need to be adjusted/modified for the safety of the employees.

Broderick said Masters, as the Building Inspector, inspects many residences in the Town. The resident may have an officer safety for the law enforcement field and Masters not know. Broderick suggested Masters communicate with the Police Dept. prior to on-site visits.

Previte said this is being done. If a business or the public would like an assessment done, the Police will do so.

Building Inspector Masters – Trane requested Masters accompany him to a drainage issue/problem on Adams Circle. Things have been done in the past, where no one really cared about easements. It is difficult to find out when the Town can or cannot clean Town drainage ditch, when there is no easement in place.

Masters would like to see a policy or guidance document so the issues can be addressed. These are issues that are not just for the benefit of one person but for a whole community.

Geiben said in years past the Town would get a temporary easement.

Lannon said from historical practices, if it was between two neighbors, it is a private property issue. If the ditch between those two neighbors houses drains 20 neighbors to the South, then that is for the great good, and becomes eligible for the Town to do, using a ditch card.

Masters said the Town had moved away from the ditch card, but if all are comfortable with that, maybe the Town should move forward.

WWTP Chief Operator Ritter – The Town is performing root removal on Kenneth Street, Barton Drive and Fort Grey. A non-hazardous chemical is put into the sanitary sewer that will kill the roots.

Town Clerk Garfinkel – The Town contract with Auctions International expires in July. The Town has had much success with them. Garfinkel requests permission to reach out to Auctions International to continue the contract.

**Bax MOVED to renew the Contract with Auctions International for a 2-year period, subject to Attorney approval, Seconded by Jacoby and Carried 5 – 0.**

In regards to the Town Animal Local Law, Garfinkel requests to work with Parisi to make changes. At this time the Town holds a dog for 5-days. This is in Article 7, Section 117.8 of Agriculture & Markets Law and the Town Local Law. Garfinkel requests changing the hold time to 3-days. There have been several cases where it is known there is no owner, they are being dumped. To hold the dog for 5-days, before taking it to the Erie County SPCA, to be adopted, is having it sit there for no reason. This can be changed by Local Law.

At the same time, Garfinkel would like to remove the fees that are in the Local Law.

Garfinkel notified the Board the position of Temporary Dog Control Officer and Bingo Inspector has been advertised in the Niagara Gazette and the Sentinel. If there are no applicants the Board will need to address the positions.

Geiben suggested Garfinkel call the NYS Employment Agency.

#### APPROVAL OF MEETING MINUTES

**Geiben MOVED to approve Town Board Work Session minutes of May 14, 2018, Seconded by Morreale and Carried 5 – 0.**

#### AUDIT PAYMENT

**Bax MOVED to approve the Regular Abstract of claims numbered 1360 to 1531, and recommend payment in the amount of \$269,998.45, plus a Post-Audit of \$37,475.98, Seconded by Geiben and Carried 5 – 0.**

#### COUNCILMAN BAX

Sewer Refund – 995 North Hewitt Drive – Ms. Burns submitted a request for her parents, Anthony & Violet Nanula. Their sump pump was stuck open after a power outage. Town policy is to forgive sewer fees one time. An average sewer fee is usually charged.

**Bax MOVED to credit Nanula – 995 North Hewitt Drive, the average sewer fee, Seconded by Jacoby and Carried 5 – 0.**

Sewer Refund – 458 Kenwood Drive - Helene Smith and Michael McGarvey. They moved in May, 2017. This is a first time pool fill. The Town Sewer Use Agreement and the Boards past practices say if a new pool with a building permit or a liner replacement, with receipt, sewer fee can be waived. Ritter to reach out to them and ask for documentation.

Morreale to leave meeting early, therefore his agenda will be discussed.

#### COUNCILMAN MORREALE

Site Plan – LMK Realty – North side of Northridge Drive

The Planning Board reviewed the Site Plan for property owned by LMK Realty, on the north side of Northridge Drive, SBL# 101.12-1-21 through 41. The Planning Board recommends approval of the Preliminary Plat as indicated in the May 23, 2018 letter.

**Morreale MOVED approval of the Preliminary Plat for property owned by LMK Realty, on the North side of Northridge Drive, SBL# 101.12-1-21-41, with the following conditions/corrections: Compliance with the Engineer's letter dated May 16, 2018; Correct graphics on C1 at lots 3 R6 & R7; Correct grading, contour lines between lots R1 & R2 on sheet C3; correct landscaping legend, eliminate 333 arborvitae, sheet L1; Remove all references to parking lot on sheet C6; Developer to pay for (4) LED light poles & installation as part of project, Seconded by Geiben and Carried 5 – 0.**

**Bax MOVED to enter into Executive Session, Seconded by Geiben and Carried 5 – 0. (6:25 pm)**

**PRESENT:** Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax, Geiben, Jacoby and Morreale; Finance Officer Agnello; Martha Blazick; Attorney Parisi; Police Chief Previte. Issued discussed: Pending Litigation - Smith vs. Town and Police Union.

**Morreale MOVED to exit executive session, Seconded by Bax and Carried 5 – 0.** (6:41 pm)

Bax excused from meeting.

#### OLD BUSINESS

Board/Commission Vacancies - (Cable-1; Board of Ethics-2; Planning Board-1) – No action taken

Change Order – Ash Tree Removal – Parisi has received no updates

Light Request – Big Vista North – Morreale sent a letter stating that the Town has met its requirements. If the developer wants another light, he is responsible for the cost of the light, and the Town would be liable for the lighting bill. Removed from Old Business.

Senior Center – HVAC – In working with Lannon, Morreale asks to go out to bid on a new unit.

Lannon said due to the estimated construction cost, the Town will solicit three (3) quotes. This project is well under \$35,000.

Morreale said it is very important to not disturb the roof.

**Morreale MOVED to seek bids for a new roof-top air-conditioner for the Senior Center, Seconded by Geiben and Carried 4 – 0.**

#### PENDING

Dog Shelter – Garfinkel is holding off seeing what direction the Town will move in.

#### NEW BUSINESS

Residents / Public Correspondence

Item No. 1 - Residents Petition requesting to uphold Zoning Law of property at 1495 Swann Road. Garfinkel read a letter received from residents residing on Swann Road. “Tax payers and residents of Swann Road properties formally request that the zoning laws of the adjacent I-1 property located at 1495 Swann Road, Lewiston, NY be upheld. The misuse and noise in the I-1 zone, namely gun fire has become extremely unacceptable. This use and emissions of extreme noise from this property has become a quality of life and health issue to some of our residents; i.e. those who have PTSD, health issues and other conditions. There are also several retired residents that are trying to enjoy their homes.

360-109 - Uses prohibited, 360-109 B strictly states “All uses of land, buildings and structures of industrial processed that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gases, fumes, noise, vibration or similar substances or conditions” are not permitted within the I-1 district.

Please resolve this matter with a determination as soon as possible.

Broderick has talked at great lengths with Masters. It is Masters’ opinion that this is not as cut and dry as it might seem on face value. Masters believes the intent of this law was for manufacturing or business, ones having loud machinery.

Masters does agree it is a quality of life issue, and more of a neighbor to neighbor dispute. It is Masters opinion “they are not being neighborly”. This code section is inapitucul. Masters agrees it’s rude and not neighborly that they shoot when people are trying to enjoy their life. There are others on Swann Road that shoot occasionally; do I shut everybody down for that? Masters does not believe he

has that liberty. Masters agrees with their blight, but does not think he can justly site that law to stop it.

Parisi has discussed this with Masters and they are on the same page. Parisi also believes the law was meant to address industrial processes. That section sited in regards to the noise, is for the making of excessive noise. It is Parisi's opinion, that there are insurmountable second amendment issues, if the Town tries to stop someone from shooting their weapons, legally under State Law, on their private property.

Broderick said this is a matter that needs to be looked into, and provide an answer in writing.

Item No. 2 - Light Request – 5152 Military Road

Resident states this area is very dark, the road curves and ditches to the side of the driveway. Morreale, liaison to the Lighting Advisory Board will call a meeting and report back.

Item No. 3 Excessive water bill – Burns – North Hewitt Drive – already addressed

Item No. 4 Mighty Fitz 5K Run

iRun WNY is notifying the Board of their annual run in Lewiston. Town Police, Village of Lewiston, Artpark and the State Police have all been notified of the event on September 3, 2018. This event will take place totally in the Village.

#### SUPERVISOR BRODERICK

Legal – Parisi said the Town Code provides for the Town to hold a Public Hearing after submission of a Final Plat. The LMK developers are anxious to move forward on their project. With the Town not having a Work Session in June, the next meeting will be June 25<sup>th</sup>. The developer is requesting the Board schedule the Public Hearing tonight for the 25<sup>th</sup>.

Parisi has received assurance from the developer they will have the Final Plat, in final form, to Lannon by June 11<sup>th</sup>. Parisi and Masters see no issues with this.

**Geiben MOVED to hold a Public Hearing, June 25, 2018 at 6:00 pm on the Final Plat for LMK Realtor Subdivision located on Northridge Drive, SBL #101.12-1-21 through 101.12-1-41 Seconded by Jacoby**

Geiben asked Parisi what happens if the documents do not come in. Paris said there would be nothing to have a Public Hearing on. If the Final Plat isn't sufficient, under the Code, it could be sent back to the Planning Board for amendment of the Preliminary Plat.

**Carried 4 – 0.**

Police Union Agreement – Local 264

Parisi said the Board has been presented with a Tentative Agreement. If the Board is satisfied with the Tentative Agreement, it needs to be approved and authorize the Supervisor to sign.

**Geiben MOVED to approve the Local 264 Tentative Agreement as presented, Seconded by Morreale and Carried 4 – 0.**

**Geiben MOVED to authorize the Supervisor to sign the Local 264 Tentative Agreement, Seconded by Morreale and Carried 4 – 0.**

Engineering

Riverfront Park - SEQRA process has started. Lead Agency coordination letters were sent out April 25<sup>th</sup>, with the 30-day comment period ending May 25<sup>th</sup>. Comments have been received.

New York State DEC informed the Town several permits will need to be obtained. The Western New York Land Conservancy stating they have no objection to the Town being Lead Agent. An e-mail was received from the Army Corps. Of Engineers stating several permits will be needed.

NYS Office of Parks, Recreation and Historic Preservation stating no objection to the Town being Lead Agency. They do require a Phase 1A, Phase 1B archaeological study be conducted on the site. Lannon solicited quotes, and one has been received from Morton Archeological Research Services. To perform this study they quoted \$5,140.

**Geiben MOVED to approve the proposal from Morton Archeological Research Services in the amount of \$5,140, Seconded by Morreale**

Jacoby asked why this needs to be done. Lannon said this area, along the river, is known for the presence of archaeological artifacts. If there is a project that involves ground disturbance, it is required.

Broderick told Agnello this will be funded through Greenway. Agnello asked if this is in compliance with the Procurement Policy. Lannon said two quotes were sent out, and one has been received. Broderick asked if this would be considered a professional service because of the unique service they do. Lannon said in his opinion, yes.

Parisi said his initial thought is that it is a professional service, but will research.

**Geiben MOVED to amend the motion to include Attorney approval, Seconded by Morreale and Carried 4 – 0.**

Finance

Agnello requests two annual transfers for the profit/loss of the Recreation Department's Special Events/Recreation Concessions and the Ice Rink.

Special Events – For fiscal year 2017 - tournament revenue exceeded the expenses. \$45,000 would be transferred to H61 to continue to support the improvements to the baseball fields as designated by the Board. The H61 account was created to carry forward any Special Event profit/loss to cover future capital improvements.

**Jacoby MOVED to transfer \$45,000 into H61-0000-0200-0000 (Cash) and H61-1000-5031-0000, and transfer \$45,000 from A00-9950-0905-0000 (Transfer to Capital Project), and A00-0000-0200-0000 (Cash) Seconded by Morreale and Carried 4 – 0.**

Ice Rink – For fiscal year 2017, Ice Rink expenses of \$71,477.34 exceed the revenue of \$59,759.33 for a net deficit of (-\$11,718.01) which was expected per the budget. The deficit was mainly due to unforeseen weather conditions causing a low turnout of attendees. H49 was created to maintain the Ice Rink and cover improvements.

**Morreale MOVED to transfer \$11,718.01 from H49-9901-0900-4403 and H49-0000-0200-0000 and transfer to A00-0000-0200-0000 and A00-1000-5031-4403, Seconded by Jacoby and Carried 4 – 0.**

COUNCILMAN GEIBEN – Nothing to report

COUNCILMAN JACOBY

Liaison Report – Council on the Arts had a successful Taste of Lewiston.

Still working of the Historic Preservation law.

Jacoby has attended meetings regarding the Brie Estate project in the Town of Niagara, because he is concerned about drainage.

Geiben asked if the Town is allowed to request a retention pond on Lewiston's side of the Town line, and have the developer pay for it. Lannon said it is private property. Geiben asked what if permission is given.

Broderick asked Lannon, from an engineering stand point, would that be the answer. Lannon said no, the pond is on the developer's property.

Geiben understands when a developer presents a project; they are to improve drainage to the area. Lannon said yes, ideally. Geiben asked if the developer is going to improve the drainage on the Town side. Lannon said he does not know that there is a drainage problem there now. All that water flows into the Town of Lewiston.

Geiben said Chairman of the Lewiston Zoning Board of Appeals is concerned that once the project is developed it will be worse.

Lannon said the Town's interest from a permitting perspective there needs to be a flood and development permit issued by the Building Inspector. Ditch work needs to be done to improve the ditch to accommodate the grades within the project on the Town of Niagara side.

Conrad believes the over-all design of the detention pond is to have a zero impact on the overall flow coming off the site, to the Town of Lewiston.

Masters said Mrs. Haseley, owner of the property, will have to sign off on the Flood Plan Development permit. Haseley is not willing to allow anyone on her property. Lannon said without that, they're not building.

#### COUNCILMAN MORREALE

Site Plan – Maries – West side of Lower River Road – Planning Board recommends approval of the Site Plan as presented with the condition that Niagara County allows the roof leaders to be tied into the 30' drain pipe or a back-up plan, if needed, and subject to approval from the Engineer.

#### **Morreale MOVED to accept the Planning Boards recommendation on the Maries property located on Lower River Road, Seconded by Geiben**

Broderick asked Lannon if this will require an Archaeological study. Lannon said no.

Conrad said the engineer of record, will go to the County with the idea of tying the roof leads in the 30 inch drainage main. There is a plan B and C if this is not approved.

#### **Carried 4 – 0.**

Masters said with the home being located in the riverfront overlay district, it was reviewed by the Environmental Commission. The Commission recommends a Negative Declaration.

#### **Morreale MOVED to accept the Environmental Commissions Negative Declaration, Seconded by Geiben and Carried 4 – 0.**

Seasonal Hires – Parks / Recreation

#### **Morreale MOVED to approve the following hires: Broderick, Lysa - \$11/hr; Carden, Matthew - \$10.40/hr; Devantier, Danielle - \$11/hr; Dobracz, Leah - \$10.40/hr; Grace, Connor - \$10.40/hr; Gundeson, Courtney - \$10.40/hr; Haight, Tyler - \$10.40/hr; Kiesel, Olivia - \$10.40/hr; Phalzer, Caden - \$10.40/hr; Slediewski, Gregory - \$10.40/hr; Webber, Bradley - \$10.75/hr, and the removal of Coppins, Noah as a Recreation Aide, Seconded by Jacoby and Carried 4 – 0.**

Excess Equipment – Storage Shed – Washuta Park

Morreale said there is no expected value. The shed should be destroyed. It was donated years ago and is in deplorable condition.

**Morreale MOVED to destroy 15 x 20 Wood Storage Shed located at Washuta Park, and not to put out to bid, Seconded by Jacoby**

Geiben thought there was another shed in the same condition and location. No Board member knew. It was suggest asking the Fire Dept. to use for a fire response.

**Carried 4 – 0**

**RESIDENTS STATEMENTS**

Miller, Jeffery – Swann Road – Miller thanked the Board for their time. Miller wants to make nice, because he has not been lately. The shooting at the substation is really getting to his family, his wife Rebecca and their 6 children. Miller has a farm across the street. When moving there 20-years ago, it was pretty mellow. People would shoot occasionally during gun season, but pretty casual. Over the last couple of years there has been a regular group of people going to the substation quite often. It is very loud and goes for hours. Last weekend there were 8 cars, with more weapons than Miller could count and it was all day.

Miller wants it to stop, or slow down and wants his life back. Miller has two children with high functioning Autism and they sit all day covering their ears. If the Board can't do something he will have to leave.

What Miller really wants to do is expand his farm by buying 50 acres directly next to the substation, but flying bullets is not something Miller wants.

Miller asked Masters what is the minimum distance one can fire a weapon next to a pool shed or pond. Masters believes 500 feet. Broderick invited Miller to come and speak with Masters.

Officer Nicolette has spoke to Miller and Nicolette spoke to the gentlemen at the substation requesting no shooting on Sunday, and no shooting from the pavilion to the burn.

Miller, Rebecca – Swann Road – Miller is speaking up for her children with Autism and she believes there may be another family also. Miller and others have rights. If there is any way this could be stopped, please.

Warren, Rosemary – Griffin Street – Warren suggested the shed be used as a practice burn. Geiben said this was suggested.

Lyle, Steven – Lower River Road – Lyle asked for an update on recording of meetings.

Geiben said Abbondanza has spoken to the electrician and was hoping to complete the installation of the wiring. Once completed, the system will be activated, and then tested. Once this is verified, Abbondanza will make arrangements with Lockport Cable to have the meetings televised. Abbondanza wishes to hold a dry run, with the Board and anyone interested. The Town Board meeting held late in June is the target date.

Abbondanza is also frustrated with the amount of time it is taking to get done.

Broderick said that Lockport Cable Access is now Channel 1301. When going through channels one does not stumble upon 1301. This is unfortunate.

Geiben said this will be advertised/announced once completed and ready to go.

Lyle said that in the meantime the Taxpayers Alliance continues to keep the meetings on Facebook. Broderick said the Board thanks them.

Witryol, Amy – Lower River Road – Witryol asked Lannon if DEC was contacted regarding the kayak project. Lannon said yes.

Witryol asked if the ordinance being discussed regarding the shooting was the noise ordinance. Masters said it is the I-1 District Regulations. Witryol suggested looking at the Noise Ordinance. There are Apps available that can be downloaded that measure sound levels. There are lots of EPA studies on continuance sound and disruptive spiratic sounds.

Witryol read with interest some of the general statements Ms. Glasgow's made in her letter in the Sentinel. Witryol was quite surprised by the information found in the Editor's Note. Witryol asked the Supervisor if he provided that information. Broderick said he did provide it, and it was incorrectly printed. Witryol asked what the corrections to the information were. Broderick said he spoke to the Sentinel about the Golf Tournament. Broderick said he went to a PGA Golf Tournament in Phoenix, Arizona that was attended by 200,000 people and as a law enforcement officer you got in for free. Broderick was not personally invited by Waste Management.

Witryol asked Broderick if he told Mr. Duffy that the Town is not in litigation with CWM. (Duffy responded but not clear to hear) Witryol appreciates the clarification and hopes Mr. Duffy will correct any inaccuracy for the benefit of Ms. Glasgow.

Glasgow, Paulette – The Circle – In regards to the camera, there are a lot of people that don't get LCTV. Glasgow asked if it is possible, for those who do not have cable, to have the meeting film be put on the Town's Website. Garfinkel is not certain about viewing, but the transcript can be put on the Website. Glasgow feels what the Town is doing is great but it is for not.

Broderick said the Town's goal is to have the YouTube channel like the Town of Wheatfield.

Glasgow spoke in regards to the Brie Estates. The Town of Lewiston was asked for input on this development, but the Town said no. Glasgow believes that Lannon needed to recues himself from this. Lannon or his firm represents the Town of Niagara. Glasgow believes this is a problem.

Broderick said GHD is the Engineering firm for Town of Niagara. Broderick feels comfortable that Lannon is on both sides, he will be looking out for all. If there are concerns from the Town of Lewiston's perspective, he would be aware of them. Broderick does not believe this is a conflict of interest.

Lannon said several months ago, when this started, he declared to the Town in public that he is the Town Engineer reviewing the project on behalf of the Town (Niagara). The review is more comprehensive in the Town of Niagara. Lannon said in no shape or form does he see any conflict of interest.

Witryol suggests the Board and Lannon look at the Code of Ethics for the American Society of Professional Engineers. It is quit specific when there are distinct parties relative to the same engineering project.

Witryol has encouraged the Board to review the Town's Ethics Code for quite some time. It is not a mark or scare to recues ones self, it is actually a sign of integrity to do so. Witryol compliments Lannon for having disclosed this earlier.

Conrad said if GHD were the designing engineer, then there certainly would be a conflict of interest. But as the reviewing engineer for both Towns, Conrad doesn't believe this is a conflict.

Broderick said the Town will look into it and respond.

**Geiben MOVED to adjourn, Seconded by Jacoby and Carried 4 – 0.**

Transcribed and Respectfully Submitted,

Donna R. Garfinkel - Town Clerk