

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Geiben, J. Jacoby & R. Morreale; Dep. Sup. B. Conrad; Chief Previte; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Eng. D. Britton (GHD); Hwy Supt D. Trane; Water Crew Chief J. Dell; Parks/Rec Dir. M. Dashineau; 2 Press; 15 Residents and Dep. Clerk C. Schroeder

The Supervisor called the Public Hearing to order, followed by the Pledge of Allegiance and a moment of silent reflection.

Public Hearing: Proposed Local Law Establishing a Moratorium on Utility-Scale Solar Energy System Installations.

The Clerk read the public notice for the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 14th day of November, 2019 at 6:00 p.m. at the Town Hall, 1375 Ridge Road, Lewiston, New York, on the adoption of a proposed Local Law entitled “A Local Law Establishing a Moratorium on Utility-Scale Energy System Installations within the Town for a Period of Six Months,” an abstract of which is as follows:

The proposed Local Law would place a six-month moratorium on the permitting and construction of utility-scale solar energy systems within the Town of Lewiston to allow the Town Board to consider appropriate revisions or amendments to the Town Code concerning the same.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours.

At such hearing, all persons interested, who wish to be heard, will be heard.

Dated: October 28, 2019

The Supervisor opened the public comment period on the proposed local law.

Evelyn Lauer, Williams Road, read a prepared statement: I am for a moratorium on solar projects for the Town of Lewiston. In too short of time, too many industrial grade solar projects have been forced on Town of Lewiston residents with no consideration for community life. Over the course of numerous meetings, the Town Board has heard many residents stand up and proclaim they are against the proposal for utility-grade energy solar facilities, including the one on Williams Road. We residents are wondering if you have actually been listening to us. I personally have not heard one person stand up and say they are for these industrial facilities. As you vote later tonight on the Williams Road solar project, I want to remind you, this Town Board has the responsibility to guard and protect the interests of all the inhabitants of the Town, of our communities and the residents on Williams Road; not just one or two individuals and certainly not the interests of a deep pocket, out of state corporation like Borrego Solar. I've spoken up at these past meetings. I want to find out that our community government works so I don't have to find out what it's like to sue a big corporation.

James Twist, Williams Road, has lived in the Town for over 40-years where he's raised his kids and grandchildren. He is in favor of the moratorium and wants to know more about it.

Andrew Nichols, Ridge Road, is also in favor of the moratorium. When re-evaluating the Solar Law, it is his opinion, to remove it as a special use permit. What he is most upset about is the planning of these projects being dumped on the residents in the rural areas. I would like the Town to look at the areas around the National Grid sub-station. We should look at the planning units that are around that facility. Is there land there that is unusable that has no other use than potentially for solar or is there land that the Town or School District owns that would benefit them with a lease agreement? I'm sure there's excess land behind the Town Highway Garage. There are no residences there. People are not farming there. It makes more sense to put solar on industrial or waste

land. That's where these projects should be sited. They should not be where active farming is occurring. Most people who live out in our community are because of the farm fields and vineyards. They do not want an industrial project. They don't want to look at solar panels.

Nancy Treichler, Townline Road, is not against solar projects. It is the way of the future. It's renewable. Solar companies are offering to run Arborvitae along the property line to make the solar panels less noticeable to the neighbors. When making decisions about solar projects, she asked the Board to use their intelligence. There is information out there about solar energy. Forget the sympathy, let's use intelligence.

At this time, Broderick invited residents to email him with any concerns, for or against, solar projects to supervisor@townoflewiston.us.

Aaron Lilly, Williams Road, supports the solar project on Williams Road. I don't see any reason for the Piva's not to be able to have a solar farm if that's what they wish. I'm not a big supporter of people being told by others that they are not allowed to do with their property. It's their property. If they do it legally they should be able to do it. It seems like everyone who stands up here is for renewable solar but not in their backyard. Times are changing. We are looking for ways to power things. These solar farms are not that big of a nuisance.

Lastly, he thanked Councilman Morreale for his service on the Town Board.

Bax MOVED to close the Public Hearing. Seconded by Morreale and carried 5-0.
Time: 6:15 p.m.

WORK SESSION:

AGENDA: Additions: Bax: Police Department Resignation; Geiben: Senior Center and Video Taping; Seaman: Ex. Session re Art. 7 Litigation and Union Contract Negotiations.

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

Borrego/Piva Energy, Site Plan/Special Use Permit:

Seaman drafted a resolution to the SEQRA Negative Declaration and notice of Determination of Non-Significance for the Borrego Solar Facility at 4352 Williams Road, Ransomville.

Bax MOVED the resolution, as follows:

WHEREAS, a proposed solar energy generation facility located at 4352 Williams Road, Ransomville, New York (the "Project") is being considered for approval of a Special Use Permit and Site Plan Approval by the Town Board, and

WHEREAS, the Town has previously circulated notices of its intent to act as lead agency with respect to the Project for purposes of conducting a review under the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation adopted thereunder (6 NYCRR Part 617) (hereinafter collectively referred to as "SEQRA") to all involved and interested agencies, and has received no objection to its serving as lead agency; and

WHEREAS, a Full Environmental Assessment Form was prepared by GHD, the Town's Engineers, and was submitted to the Town Board (the "EAF"), and which EAF was also circulated to involved agencies for input pursuant to SEQRA, and

WHEREAS, the Town Board has considered the Project and reviewed the EAF and all comments received from involved or interested agencies, in light of the criteria set forth in SEQRA in order to determine whether the Project will have a significant effect on the environment, now therefore be it

RESOLVED, that the Town Board of the Town of Lewiston hereby declares itself lead agency for the purposes of SEQRA review of the Project, and be it further

RESOLVED, that based upon the information set forth in the EAF, and for reasons more fully set forth in parts 2 and 3 of the EAF, the Town Board hereby determines that there will be

no significant environmental impacts with regard to the Project, and hereby adopts and issues the attached Negative Declaration under SEQRA with respect thereto, and be it further

RESOLVED, that following the Town Supervisor be, and hereby is, authorized to execute any necessary documents in conjunction hereto.

Seconded by Morreale and carried 5-0.

Bax MOVED a resolution regarding an application by Borrego Solar Systems, Inc. for Site Plan Review and Special Use Permit for a proposed Utility Scale Solar Energy System located at 4352 Williams Road, Ransomville

WHEREAS, the Town of Lewiston received an application from Borrego Solar Systems, Inc. for a Special Use Permit and Site Plan review for a utility scale solar energy system to be located at 4352 Williams Road, Ransomville, New York; and

WHEREAS, the Town of Lewiston Planning Board reviewed the proposed project and recommended approval, with conditions, to the Town Board of the Town of Lewiston; and

WHEREAS, the Town of Lewiston Town Board, on September 9, 2019 and on October 17, 2019 did hold two duly advertised Public Hearings at Lewiston Town Hall, 1375 Ridge Road, Lewiston, New York, regarding the application for a Special Use Permit and site plan review of the proposed utility scale solar energy system and at such public hearing every party wishing to be heard was heard; and

WHEREAS, the Town Board has considered all relevant testimony, documents, and all other information presented and placed before it;

NOW THEREFORE BE IT RESOLVED, that based on the testimony, documents, and other information presented, the Town Board makes the following findings:

a. That the use, a utility scale solar energy system, is designed, located and proposed to be operated so the public health, safety, welfare and convenience will be protected, to wit: the project has been designed and located such that the solar panels will be behind hedges and vegetation substantially reducing its visibility and impact to neighboring properties and public highways and the solar panels are enclosed by a chain link fence which inhibits physical access to the system. Additionally, the project is also located in a relatively sparsely populated area of the Town, and a glare study submitted by the applicant shows no glare impact from the project; and

b. That the use, a utility scale solar energy system, will not cause substantial injury to the value of other property in the neighborhood where it is located, to wit: the project has been designed and located, such that the solar panels will be behind hedges and vegetation thus substantially reducing its visibility and impact to neighboring properties; and

c. That the use, a utility scale solar energy system, will be compatible with adjoining development and the character of the neighborhood where it is located, to wit: the neighborhood the project is located in is zoned rural residential which allows for such uses pursuant to special use permit and site plan approval. The rural residential zone generally consists of large lots with single family homes and/or large farming operations, vacant areas, or woods. The character of the neighborhood will not be effected since the project has been designed to substantially minimize and obscure the solar panels from view of neighboring properties and public highways. In particular, the project will be situated with over twice the frontage setback as is required by Town Code; and

d. That the use, a utility scale solar energy system, provides adequate screening to preserve the character of the neighborhood, to wit: the project is located on a lot with existing hedges and vegetation surrounding the panel site and applicant is providing additional screening and vegetation to obscure sight lines of the system; and

e. That the use, a utility scale solar energy system, provides adequate off-street and loading and the special use will not substantially interfere with traffic on abutting streets, to wit: while the project will cause an increase in traffic during construction that impact is not expected to be substantial and will be limited in time to the period of construction only. Once completed, the nature of the project does not require the presence of employees or other staff beyond periods of required maintenance; and

BE IT FURTHER RESOLVED that the Site Plan Approval and Special Use Permit for operation of a utility scale solar energy system at 4352 Williams Road, Ransomville, New York is granted, with the following conditions:

- 1) Submission of a fully funded decommissioning bond, with decommissioning plan, in substance and form acceptable to the Attorney for the Town and the Town Engineer, prior to commencing construction, pursuant to Town Code Section 360-220(S).
- 2) Continued compliance with all requirements of Article XXVIII of the Town Code (Solar Energy Systems), as amended.
- 3) Compliance with any and all PILOT agreements.
- 4) Landscape buffering consistent with the landscape plan submitted by or on behalf of applicant, sufficiently high to block view of the fence and solar energy system at ground level from the street and neighboring properties; and for applicant to provide ten foot trees in the screening area fronting Williams Road rather than the eight foot trees submitted by applicant.
- 5) There will be no staging of trucks/vehicles or construction on premises except between the hours of 8:00 a.m. and 8:00 p.m.
- 6) Solar energy system to be constructed and operated in accordance with the New York Department of Agriculture & Markets: Guidelines for Agricultural Mitigation for Solar Energy Projects.

Geiben said he is going to vote in favor of the resolution. The Board did its best to mitigate the concerns of the residents. In 2010 the Town made a Pledge to limit its carbon footprint. It's good for the community and environment.

Geiben asked the applicant if they reached out to National Grid to get a written statement with regard to the capacity of the sub-station going forward. Borrego Solar said they did reach out to National Grid and they are willing to do that but haven't sent it yet. Broderick said he would follow up on this.

Seconded by Geiben and carried 5-0.

Local Law re Moratorium on Utility Scale Solar Energy System Installations:

Bax MOVED to adopt a Local Law establishing a moratorium on Utility-Scale Solar Energy System Installations within the Town for a period of six months, as presented. Seconded by Jacoby. A poll of the Board is as follows: Bax – Aye; Geiben – Aye; Jacoby – Aye; Morreale – Aye; Broderick – Aye. **Motion carried 5-0.**

ABSTRACT:

Morreale MOVED to approve the Regular Abstract of Claims Numbered 3034 to 3185 and recommended payment in the amount of \$109,992.00, plus a post audit of \$29,538.62. Seconded by Geiben and carried 5-0.

MINUTES:

Geiben MOVED to approve the minutes of 10/28/2019, RTBM, Seconded by Morreale and carried 5-0.

Geiben MOVED to approve the minutes of 11/07/2019, PH 2020 Preliminary Budget. Seconded by Bax and carried 5-0.

DEPARTMENT HEAD CONCERNS:

Police: Chief Previte thanked everyone involved in the grant contest for Canine Shadow. He finished tied for sixth in the Country and finished first in the New England Region. He thanked everyone for participating and voting. It speaks volumes to the size of the Town of Lewiston which out-performed the City of Buffalo.

Bax read a letter from Alexander Ruckh resigning his position as a Town of Lewiston police officer, effective immediately.

Bax MOVED to accept the resignation, effective immediately. Seconded by Morreale and carried 5-0.

Building: Masters said he sent out 12 requests for quotes for repair to the roof pavilions at Washuta and Pletcher parks. He received one estimate yesterday and two back later in the day that he didn't have time to review. He will provide estimates at the next meeting.

Dep. Sup: Conrad said they need a game plan on how to move forward with changes to the Solar Law. He wants to be a part of that. Geiben said they will be attending the Association of Towns in February. The Association should be able to provide a variety of sample laws that have been enacted in the several months.

Parks/Recreation: Dashineau said the tent at the ice rink partially collapsed with the weight of the snow during the recent storm. They have access to repair parts. He estimated a cost between \$5,000-\$8,000 to repair said tent.

Seaman said they could potentially declare this an emergency as a result of a weather event and allow the Director to purchase replacement parts at a cost not to exceed \$8,000.00. Dashineau would have to obtain 3 written estimates, as per the Town Procurement Policy, if possible.

Geiben MOVED do declare an emergency for the purpose of the purchase of replacement parts for the Ice Rink at a cost not to exceed \$8,000, as per the Town Attorney. Seconded by Jacoby and carried 5-0. Funds to come from H49 account.

Recreation Hires:

Dashineau asked for approval of the following applicants for the position of Recreation Aides for winter work at the Lewiston Ice Rink.

Ian Evans - \$11.65 p/h; Jimmy Thomas - \$11.10 p/h; John Ferguson - \$11.65 p/h; Frank Previte Jr. - \$11.65 p/h; Brandon Haskett - \$11.10 p/h; Connor Haskell - \$11.10 p/h; Daniel Gambino - \$11.65 p/h; Brooke Deal - \$11.65 p/h

Further, he asked for approval of the following applicants as Recreation Aides for employment in the Basketball program at an hourly salary of \$11.50.

Cooper Krawczyk; Adam Coppins; Rodriguez Gayle; Zachary Clayborne and David Reilly.

Geiben MOVED for approval of Recreation Aide hires, as presented. Seconded by Morreale and carried 5-0.

Finance: The Finance Director requested approval to process four (4) budget revisions.

- 1) A request to move \$2,100 from the Justice Court Contractual (A00-1110-0400-0000) to Justice Equipment (A00-1110-0200-0000) to cover various equipment purchases.

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

- 2) A request to move a total of \$572 from Parks Contractual (B00-7110-0400-0000) to Parks Equipment (B00-7110-0200-0000) to cover equipment purchases

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

- 3) A request to move a total of \$30,000 from General Repairs Contractual (DB0-5110-0400-0000) to Machinery Contractual (DB0-130-0400-0000) to cover repair expenses in the Highway Department.

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

- 4) A request to move a total of \$25,000 from Sewer Treatment & Disposal Equipment (SS1-8130-0200-0000) with \$20,000 going to Sewer Treatment & Disposal Contractual (SS1-8130-0400-0000), 42,500 going to Sewer Administration

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Equipment budget (SS1-8110-0200-0000), and \$2,500 going to Sewer Administration Contractual (SS1-8110-0400-0000) to cover equipment and various contractual expenses.

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

Agnello said an investment in US Treasury Bills made July 31, 2019 have matured on October 31, 2019. The total interest earned by the Town is \$7,595.

Funds were reinvested in US Treasury Bills on October 31, 2019 and will mature on April 30, 2020 and earn \$11,450 in interest.

The next schedule of investments will mature on January 30, 2020 with an expected \$20,035 in interest.

2020 Budget:

Bax MOVED to adopt the 2020 Final Budget, as presented. Seconded by Morreale.
A poll of the Board is as follows: Bax – Aye; Geiben – Aye; Jacoby – Aye; Morreale – Aye; Broderick – Aye. **Motion carried 5-0.**

Chief Previte wanted the public to know the Board afforded the Police Department the luxury of purchasing a traffic car in 2020. This is the biggest complaint they have. He encouraged residents to call the department about stop signs, street lights, speeding, etc.

Sewer Credit:

Bax MOVED to approve a sewer credit of \$97.23 to Pam Fitzgerald & Paul Gerspach, 531 Mountain View Drive after work was completed on their pool. Seconded by Geiben and carried 5-0.

Fire Company Roster Additions:

The Upper Mountain Fire Company submits for active membership – Andrew Cotter, 11 Vincentian Dr, Unit 1093, Niagara University.

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

The Sanborn Fire Company, Inc. submits for active membership the name of Jared Hoover, 2787 Saunders Settlement Road.

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

The Sanborn Fire Company, Inc. submits for active membership the name of Jeremiah Hatfield, 6275 Hoover Road, Sanborn. The prospective member is a resident of the Town of Wheatfield but resides/is employed in the vicinity and is available to render active service as a volunteer fireman.

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

The Sanborn Fire Company, Inc. submits for active membership the name of Riley Schepis, 6148 Baer Road, Sanborn. The prospective member is a resident of the Town of Wheatfield but resides/is employed in the vicinity and is available to render active service as a volunteer fireman

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

Senior Center:

Geiben said the Senior Director was at the October work session concerned about a leak in the roof. The Engineer made arrangements with Grove Roofing. There were two

spots in the ceiling tile as a result of a plumbing problem and not a leak in the roof. It has since been resolved.

Video Taping:

Geiben said there is a chip that is needed for the camera. The intern from NCCC takes it after the meeting to download the recording. If by some chance he doesn't come back we don't have the chip. The Clerk ordered another chip so they would be able to videotape the meeting in the event the NCCC intern is not here.

PRIVILEGE OF THE FLOOR:

No one wished to speak.

Lastly, Jacoby said they attended the dedications to the Veterans' Memorial at Academy Park. Hundreds of people attended. It was a beautiful presentation. It was a good thing for the community. The VFW presented the Town with a Marine Corp poster which is on display in the Supervisor's office.

Geiben MOVED to enter into Executive Session re Consulting with Attorney regarding an Art 7 proceeding and Union Contract Negotiations. Seconded by Bax and carried 5-0. Time: 7:15 p.m.

Executive Session:

Present: Broderick, Bas, Geiben, Jacoby, Morreale, Conrad, Agnello

Issues Discussed:

- 1) Union Negotiations
- 2) Article 7 Litigation

Bax MOVED to exit Executive Session. Seconded by Jacoby and carried 5-0. Time: 7:30 p.m.

Minutes taken by Attorney Tom Seaman

Action Taken:

Morreale MOVED to approve settlement of Article 7 Litigation on matter of Legacy Apartments v Town of Lewiston, et al, at assessed value of \$2,244,320, with freeze for statutory period plus one for each waived. Seconded by Jacoby and carried 5-0.

Geiben MOVED to adjourn. Seconded by Bax and carried 5-0. Time: 7:30 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk