

Present: Dep. Supervisor W. Conrad; Councilmembers A. Bax, B. Geiben, J. Jacoby & R. Morreale; Chief F. Previte; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Engineer B. Lannon; WPCC Ch. Op. J. Ritter; Water Foreman D. Zahno; 15 Residents and Dep. Clerk C. Schroeder

Excused: Supervisor Broderick

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

*AGENDA:* Additions: Geiben: Senior Center Announcement; Seaman: Legal Issues 1) Highway Abandonment and 2) Amendment to Public Drainage Easement.

**Bax MOVED the agenda, as amended. Seconded by Jacoby and carried 4-0.**

#### CENSUS PRESENTATION

Ed Walker, Partnership Specialist for the New York Regional Census Center, spoke relative to the 2020 Census. His job is to engage any and all duties of organization of government agencies and basic organizations telling them how important and easy the census is going to be. We will be shaping our futures in this Country for the next ten years based on what we do come early next year.

The U.S. Census Bureau is the largest statistical agency in the United States. The 2020 Census will begin April 1<sup>st</sup>. The Census Bureau conducts more than 130 surveys and programs with different areas in the country chosen at random.

Walker said for the first time, people will be able to comply with the census online. They anticipate counting over 330 million people and over 140 million housing units. The census is mandated by Article 1, Section 2 of the U.S. Constitution. The census is conducted every ten years ending in zero since 1790. Walker said the census is safe, easy and important.

It is important in determining the number of seats each State has in the House of Representatives; defines congressional and State legislative districts, school districts and voting precincts; and determines the annual allocation of \$675 billion in federal funding.

The census is safe. Private information is never published. The Census Bureau collects information to produce statistics.

People can respond to the census in four ways: Online, Phone, paper, Personal Visit by Census Employee. They will ask for name, age, DOB, race, relationship, gender, and tenure (own home or rent). The Census Bureau will never ask for a social security number, money or donations, anything on behalf of a political party or a full bank or credit account numbers.

The census will start March 12-20 with an invitation to respond on-line. March 16-24, a reminder letter will be sent. March 26-April 3, a reminder post-card will be sent. April 8-16, a reminder letter and paper questionnaire is sent. April 20-27, a final reminder postcard before follow-up with an enumerator.

Walker said they need to engage everyone in the country to make sure to get a complete and accurate count. They are looking for a partnership with local governments to get the information out there. He strongly suggests the Lewiston Town Board adopt themselves as a Complete Count Committee – a disseminator of information for the Census Bureau.

People can earn extra income while helping the community. Positions include Enumerators, Recruiting Assistants, Census Field Supervisors and Office Operation Supervisor. New York's recruiting goal is 169,000 people to complete the census. The website is <https://2020census.gov/jobs>. As of January 1, 2020, the salary is \$18 per hour, plus mileage. People can work part-time, days, nights or weekends. Training will be paid for.

Geiben asked Walker if there is a document that needs to be completed to be a Complete Count Committee. Walker said no, just tell him and the information will be sent out. The Board needs to select a designee.

Jacoby asked if there will be any financial or labor obligation of the Town. Walker said absolutely not. It is any organization that is willing to help spread the word about the Census.

**Bax MOVED to designate the Town a Complete Count Committee and Donna Garfinkel – Town Clerk be the contact person, Seconded by Geiben and Carried 4 – 0.**

#### RESIDENTS STATEMENTS

Carlson, Linda – Kenwood Drive – Carlson asked the status of the fence at 439 Kenwood Drive.

Masters said it is in Court. Carlson asked why, they were denied the variance. Masters said that is correct. It is in court for non-compliance, and the judge gave them until January to bring it into compliance. Carlson asked if they will be fined. Masters said that is not his office, once it is in the court, Masters is out of it.

Carlson asked Masters why he did not respond to her email. Masters did not have an answer. Carlson said Broderick did not answer either.

Carlson questioned if one is going to apply for a permit and is not going to be within code, should one not get variance then? Carlson questions why he was able to apply after. Masters said resident are always allowed to apply. Carlson said the Town may be hearing from her lawyer next.

#### DEPARTMENT HEAD STATEMENTS

Chief Previte – Happy Thanksgiving to all. There will be DWI checks through-out the Town.

Attorney Seaman – Highway abandonment – Aberdeen Road - This was a highway dedication made back in the 50's that was never developed. The property has been transferred many times since then without issue, but during a recent sale, the mortgage company raised this issue and required correction. The property the Town is abandoning runs right through part of the house.

Bax believes he has a part in the sales transaction of the property. Seaman suggests Bax recues himself.

Seaman said this is a formality. The fact that the Town never turned this property into a highway, even after six years, it automatically deeds back to the homeowner. In the course of the property transaction, the insurance company wanted this resolved.

Trane is aware of this. The required process is the Highway Superintendent signs the Certificate of Highway Abandonment the Board accepts and then signs.

Beginning at the Northeasterly corner of Subdivision Lot Number 11-N, Thence Southerly along the East line of Lot 11-N a distance of 184.73' to the Southeasterly corner of lot 11-n; Thence Westerly along the South line of Lot 11-n and the North line of Aberdeen Road, a distance of 18'; Thence Northerly, a distance of 184.73' to the North Line of Lot 11-N which point is 18' West of the point of beginning; Thence Easterly along the North Line of Lot 11-N; a distance of 18' to the point or place of beginning.

**Geiben MOVED to accept the Highway Superintendent's Certificate of Highway Abandonment, Seconded by Jacoby**

Morreale asked Seaman, with him being a cousin of the new purchaser, should he recues himself. Seaman asked if he could consider this request in a fair and impartial manner. Morreale said yes. This property has been sold more than two times. Seaman does not believe Mr. Morreale needs to recues himself, he is not required to under any provisions of the law.

Jacoby asked if this action will show any partiality to either side. Seaman said no.

**Motion Carried 3 – 0.** (Bax abstained)

**Geiben MOVED to authorize the Supervisor to sign the Certificate of Highway Abandonment, Seconded by Jacoby and Carried 3 – 0.** (Bax abstained)

Wolf Run Drainage Issue – Two lots have been purchased, and made into one. The house will be built in the middle. The way the subdivision was designed, it included public drainage easements that run from the back of the lot to the front. If the drainage easement is not revised, it runs directly through the house. This has been discussed with Lannon, Masters and Trane. All are in agreement. Seaman is requesting the Board approve to abandon certain portions of a drainage easement relative to Lot 24 and Lot 25 of Wolf Run, condition on Attorney approval.

**Geiben MOVED to abandon certain portions of a drainage easement relative to Lot 24 and Lot 25 of Wolf Run, condition on Attorney approval, Seconded by Bax**

Geiben asked if the revised easement will be placed on the outside of the new lot. Seaman said the remaining drainage easements that are in place satisfy what is necessary for the drainage on the lot.

**Motion Carried 4 – 0.**

Seaman asks for Board approval to have Deputy Supervisor Conrad to sign Partial Release of Public Drainage Easement, since he presided over the meeting.

**Geiben MOVED to have Deputy Supervisor Conrad sign the Partial Release of Public Drainage Easement, Seconded by Morreale and Carried 4 – 0.**

APPROVAL OF MEETING MINUTES - November 14, 2019 – Public Hearing / Work Session

Agnello asked for a correction – Page 139, budget revision #4, it's not \$42,500, should read \$2,500.

**Geiben MOVED approval of the November 14, 2019 – Public Hearing / Work Session minutes as amended, Seconded by Morreale and Carried 4 – 0.**

AUDIT PAYMENT

**Morreale MOVED approval of the Regular Abstract of claims numbered 3186 to 3321 and recommend payment in the amount of \$942,068.24 plus a Post-Audit of \$15,129.00, Seconded by Geiben and Carried 4 – 0.**

OLD BUSINESS

Roof Bids / Pavilions – Masters

**Jacoby MOVED to table Roof Bids / Pavilions, Seconded by Morreale and Carried 4 – 0.**

PENDING - None

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Legal - Addressed

Engineering – Lannon updated the Board on the Police and Parks building. Advertising for bids has started. The electrical contract needs to be rebid. Lannon asked for the Board's approval to go out to bid for the electrical contract.

**Geiben MOVED to allow GHD to go out to bid for the electrical contract for the Police and Parks building, Seconded by Jacoby and Carried 4 – 0.**

Waterline Project - Lannon requests the Town advertise for bids on December 16, 2019, open on January 22, 2020, and awarding on January 27, 2020.

**Jacoby MOVED to allow GHD to advertise for bids for the Waterline Project, Seconded by Geiben and Carried 4 – 0.**

Morreale asked Lannon if the Town will incur any additional engineering cost with all this delay. Lannon said there will be during the bidding phase, construction phase and inspection. No more on design.

Morreale said with GHD being awarded a \$1.3 million contract, will that stay the same, even with the delay. Lannon said there are no additional engineering costs due to the delay. Morreale not sure if it was \$1.2 or \$1.3 million. Lannon said \$1.1 million.

Jacoby asked Lannon where the State stands with Creek Road. Lannon said GHD provided the DOT with drawings of the original line, met with them and they had suggested edits. They want the waterline moved away from the road, closer to the school but still within the DOT right-of-way.

Up along Lewiston Road, from the Lewiston-Queenston Bridge to Mt. View Drive, there were changes made, which allowed for the elimination of about 600 feet of waterline.

A resident asked Lannon about how many qualified bidders are expected to bid. Lannon said the low bidder has to be a responsive and responsible bidder. For a project like this, there will be a fair bit of interest. It is hard to say, but Lannon would think 6 – 10. Bidding this time of year allows the companies to plan for the 2020 construction season.

Finance - Budget Revisions

Agnello requests to transfer \$900 from Assessor Contractual - A00-1355-0400-0000 to Assessor Equipment - A00-1355-0200-0000, to cover the purchase of a new server. Their current server crashed twice. It has been recommended it be replaced as soon as possible.

**Morreale MOVED to transfer \$900 from Assessor Contractual - A00-1355-0400-0000 to Assessor Equipment - A00-1355-0200-0000, Seconded by Geiben and Carried 4 – 0.**

Agnello requests to transfer \$1,778 from Police SRO Revenue - B00-1000-1520-0220 to Police BOCES SRO Personnel - B00-3120-0100-0035, to cover the BOCES SRO personnel expenses. The agreement was developed with BOCES through the fiscal year and therefore did not have a budget at the time of inception.

**Bax MOVED to transfer \$1,778 from Police SRO Revenue - B00-1000-1520-0220 to Police BOCES SRO Personnel - B00-3120-0100-0035, Seconded by Morreale and Carried 4 – 0.**

Agnello requests to transfer \$2,675, with \$1,000 from Dog Control Equipment - A00-3510-0200-0000, \$1,675 from Dog Control Contractual - A00-3510-0400-0000 to Building Equipment - A00-1620-0200-0000 to cover new carpet tiles in the front foyer of the Town Hall.

**Jacoby MOVED to transfer \$2,675, with \$1,000 from Dog Control Equipment - A00-3510-0200-0000, \$1,675 from Dog Control Contractual - A00-3510-0400-0000 to Building Equipment - A00-1620-0200-0000, Seconded by Morreale and Carried 4 – 0.**

Authorize signing of Engagement Letter – Auditors

The Town contracts with Dresher and Malecki as Town auditors. The Town signs Annual Financial Report Update Documents to AUD as well as Audit Engagement Letters. Agnello requests the Board authorize the Supervisor to sign these letters.

**Morreale MOVED to authorize the Supervisor to sign the Annual Financial Report Update Documents to AUD as well as Audit Engagement Letters, Seconded by Bax and Carried 4 – 0.**

COUNCILMAN BAX

WWTP Hire - For the last year the WPCC has received applications and resumes, and conducted interviews to find the right fit of talent and personality to work for the Town of Lewiston.

**Bax MOVED to hire Josh Stack as Maintenance at the WPCC, start date of January 2, 2020, pay rate pursuant to terms of WPCC Union Contract, Seconded by Geiben and Carried 4 – 0.**

Brush Bids – Highway

**Bax MOVED to authorize the Highway Department to go out to bid, subject to Attorney approval of bid packet, for brush removal, Seconded by Geiben and Carried 4 – 0.**

COUNCILMAN GEIBEN

Geiben encourages the Board to attend the Senior Center's Annual Christmas party, December 10<sup>th</sup>.

COUNCILMAN JACOBY

Jacoby attended the Historical Preservation Committee meeting. Chairperson Maggard was not in attendance due to hip surgery. Jacoby asks all to keep her in their thoughts.

COUNCILMAN MORREALE

Morreale said the Town has paid for their portion of the street lights. It is in the scheduling process.

Jacoby said Morreale did a heck of a job on this lighting project. Congratulations to Morreale on a great job.

Attorney Perlman discussed the Niagara County Communication Tower. The location of the cell tower needs to be moved. Perlman will contact Chief Weidel regarding the changes, get necessary approvals from Boards and Committees, then it will go before the Town Board again.

RESIDENTS STATEMENTS

Witryol, Amy – Lower River Road – Witryol asked for additional clarification from Atty. Seaman regarding the recusal issue on the Highway Abandonment. It is not a surprise to Witryol that Mr. Bax, one of the most honest and earnest members of the Town Council that this Town has ever had, recused himself. Mr. Morreale asked to recues himself, for using their discretion, either legal or feel comfortable and avoiding even that appearance of conflict of interest.

Witryol wonders if the situation was different, and an issue came before the Board where a council member would say “Well, gee I have to choose between the Town and my family”. In that sort of situation would Seaman encourage them to recues themselves?

Seaman appreciates Witryol's question, but will not, at this Board meeting, have her stand and pose fanciful questions that are based on some subjective facts she has in her own mind, and ask what the legal analysis would be.

Seaman will not engage in Witryol laying out stacks of scenario to try to challenge his legal interpretation. What happened between Seaman and the Board today, is Seaman's interpretation of a legal matter.

Seaman is not here to engage in conversation, nor is that the purpose of the public comment period. Public comment is for residents to make comments. The Board can acknowledge them if they want.

Witryol addressed Deputy Supervisor Conrad, asking for his comment on what the appropriate guidance is. The hypothetical that was laid out to Mr. Seaman was not for the intent or mind-reading that Mr. Seaman portrayed, but never the less there are legal requirements for recusal and there is discretion for recusal.

Witryol would welcome and appreciate from the Board as to how they interpret the situations when recusal would be appropriate. Possibly at the next meeting.

Glasgow, Paulette – The Circle Drive – Glasgow asked Agnello what the annual salary is for Mr. Seaman. Agnello said she would have to look at the budget.

Seaman again stated the public comment period is not intended for a question session. Glasgow said she is not asking for a legal opinion.

Glasgow said the Town has an Ethics Code that is in process. There is a section in the Ethics Code that reads (paraphrasing) “When a Town employee or official feels that they ethical are found to recues themselves that they are within their right to recues themselves”.

The Lewiston Taxpayers Accountability & Action Alliance brought to this Board a revised Ethic Code and Glasgow hopes the Board goes back and revisit the Code.

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

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk

Carole N. Schroeder, Deputy Town Clerk