

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto & R. Morreale; Captain Penzotti; Finance Director/Budget Officer M. Blazick; Eng. D. Britton; Attorneys J. Catalano & R. Parisi; Hwy Supt D. Trane; Water Foreman M. Townsend; Parks/Rec Director M. Dashineau; Grant Writer Bernie Rotella; 2 Press; 50 Residents and Dep. Clerk C. Schroeder

Excused: Councilman Geiben and Dep. Sup. Conrad

The Supervisor called the Public Hearing to order, followed by the Pledge of Allegiance.

Public Hearing #1 re: Amendment to Town Code §360-50, 108 & 114

The Clerk read the public notice for the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Lewiston Town Board on the 12th day of October, 2017 at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Lewiston, NY, on the adoption of a proposed Local Law entitled, "A Local Law Amending Chapter 360 of the Code of the Town of Lewiston," an abstract of which is as follows:

The proposed Local Law amends §360-50, 360-108 and 360-114 of the Code of the Town of Lewiston to allow for Special Use Permits for Emergency Services Providers and Fire Companies located in Rural Residential (RR), Industrial (I-1), and Industrial (I-2) Districts.

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

Dated: September 25, 2017

Before asking for public comments, the Supervisor read the following announcement:

At the public hearing on September 11, 2017, it was brought up that no one was speaking out on behalf of the Upper Mountain Road PUD development. On September 28, 2017 during the Regular Town Board Meeting citizen comments, a local real estate agent, who has as much invested in this community as anyone else, spoke in favor of the project. As she left the room, she was verbally harassed with profanities by residents against the project. To those responsible, and you and I both know who you are, you should be ashamed of yourself. This childish behavior will not be tolerated. Anyone who wishes to speak, either in favor or against any project or issue, will be given the respect they deserve. Anyone who feels differently will be asked to leave. No one should be harassed for speaking up in front of the Town Board that wishes to hear what everyone has to say.

With that said, the Supervisor opened the public comment period on the proposed local law amendment.

Les Myers: The purpose of our request that necessitated this public hearing and a change in the local law is to allow Lewiston # 1 to train our firefighters. Live fire training is a critical component used in keeping our firefighter's skills up to date. Just like a police officer or soldier, firefighters must regularly practice their basic skills to stay competent when split second decisions truly could mean life or death. Having to travel out of district to train causes increased risk to the public due to increased response times and limits our ability to conduct this training as needed. We currently share facilities in Lockport and Niagara Falls with other departments. Due to time constraints it is typically only feasible to use these facilities for weekend training. These current limitations are restricting us to around 3 live fire drills a year.

With over 50 active members, it is not possible for all of our firefighters to attend these limited availability drills. If they do, there are so many firefighters that each one rarely gets the repetitive skills needed to enable muscle memory and situational awareness in a controlled but higher stress training atmosphere. Having the ability to train at our own station will solve both of these problems. We would be able to schedule smaller drills so each firefighter would be able to continue to master their skills and by keeping our equipment and personnel in our district it will not have any impact on our ability to respond to the community's emergencies.

The training prop will be built to allow training in compliance with national standards of NPFA. It will have a ribbed steel exterior and painted to match our existing fire station. The typical actual live fire time for burn drills would be less than 5 minutes. The fuel load would typically weigh less than 50 pounds. This equates to approximately

1 wood pallet and a ½ bale of straw. On a typical live fire training event we would conduct 2 or 3 of these burn events over the course of 2 hours.

To maximize firefighter safety and reduce risk of injury the accepted training method for low visibility (used to be called “smoke house”) training is to use a mechanical smoke generator similar to those used in the theater. The “smoke” is a non toxic mixture that is biodegradable and environmentally safe and safe to breath. If we wish to combine a live fire and low visibility, we would plan to utilize the clean burning materials listed above in conjunction with the smoke generator.

Considering an average training night would have a total combined live fire time of less than 20 minutes, our impact on the environment is very small. If a neighbor has a family party and small campfire that lasted for 3 hours this would be at least 9 times the release of smoke into the air. Many of the houses on Swann Road have wood burning fireplaces or wood burning stoves. A small fire in a fireplace could again be approximated to last 3 hours and have 9 times the release of smoke into the air. A wood burning stove that is used to heat or supplement the homes heat could conceivably run non-stop for 5 months of the year. The emissions from that 1 stove have such a greater impact over our usage that the values would be hard to calculate.

Excluding heating combustion pollution, the Town highway garage directly to our west emits considerably more smoke and toxins on a regular basis from truck and machinery traffic than our occasional live fire training would ever emit. That comparison is meant to show how little impact our usage would have on the environment. More importantly it shows a parallel need for this usage. The diesel pollution, while not perfect, is an unavoidable part of providing municipal services to the town residents. Likewise, allowing our live fire training that might have a minor impact will result in the fire department also being prepared and able to safely serve the residents of our community.

There has been reference to a training facility being built in Niagara Falls off of Hyde Park at James Avenue. This facility is being built by the City and will not be a live burn facility. The only live burn facilities in Niagara County are in Niagara Falls on River Rd. east of Williams Rd. and in Lockport next to the Niagara County Sheriff’s Office.

Lewiston # 1 urges the Town Board to vote to allow us to train for what we do.

William Kraft, Swann Road, said the I-1 District is intended for the provision of a district that supports light-industrial uses. It serves as a transition between the heavier industrial nature of the Town’s I-2 District, which would be Modern. We have no heavy industry in the Town, like they do on Hyde Park where the other facility is located and can handle the diesel smoke and other pollutants. They don’t mention the loud radios that will be broadcasting thru the neighborhood. They don’t mention all of the other facility’s members they will bring down. We know it won’t just stay with Lewiston #1. They will cry the blues that they can’t afford to maintain it so they will bring in other entities to help them. We already played this game with our Police Department. We made an agreement years ago about the noise to keep it within the Lewiston Police Department, who is in violation within the I-1 permitted uses. You can’t even do what they are doing in an I-2 zone because of our Town laws.

The I-2 Zone District and the Residential District is intended to accommodate manufacturing, processing, wholesale warehousing, while protecting the residential properties from unreasonable and adverse impacts associated with these uses. Then, you have uses permitted in an I-1 District: Light industrial, assembly of components and parts, warehouse business and storage, housing of goods for distribution, research facilities, business offices, medical offices and public utility facilities. Everything must be done inside a building. No dust. No noise. They can’t operate down there like that. They can’t even by law have a drill down there.

They want to come in here and turn our neighborhood upside down. We’ve had nothing but gunfire. They shot our neighborhood up Monday. They think they can do whatever they want down there whenever they want. The fire company has been told “no” by the Zoning Board of Appeals. They have lawyers. We have lawyers too. I suggest that this Town Board does not grant this request from Lewiston #1.

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Candance Sledzieski, Swann Road. Lewiston #1 in the Village is closer to Hyde Park than it is to the location on Swann Road by a half mile. The distance that Mr. Myer's commented on is incorrect. We went to the Zoning Board and the application was shot down as it did not meet the criteria for a burn tower. What I would like to address more importantly, is this burn tower will cause substantial injury to the value of my property. My property value will decrease.

Erin Ortner, Swann Road: My house is directly next to the fire hall. Every day, all day, I hear gun shots. I'm tired of it. I'm ready to sell my house but no one will buy it. It's like I'm living in the hood. I'm sick of it.

This ended the public comment period.

Bax MOVED to close the Public Hearing. Seconded by Ceretto and carried 4-0.
Time: 6:15 p.m.

WORK SESSION:

Deletions: Saunders Settlement Road Drainage issue: Additions: Executive Session regarding a personnel issue and a claim against the Town for property damage (Parisi).

Bax MOVED to approve the agenda, as amended. Seconded by Morreale and carried 4-0.

Broderick said they would take no action on the Local Law on the amendment to Town Code §362-50, 360-108 & 360-114.

ABSTRACT:

Bax MOVED to approve the Regular Abstract of Claims Numbered 2787 to 2931 and recommended payment in the amount of \$299,691.15, plus a post audit of \$16,159.27. Seconded by Morreale and carried 4-0.

MINUTES:

Bax MOVED to approve the minutes of 9/11/2017, PHs/Work Session, Seconded by Ceretto and carried 4-0.

Bax MOVED to approve the minutes of 9/25/2017, RTBM, Seconded by Morreale and carried 4-0.

DEPARTMENT HEAD CONCERNS:

Police: Cpt. Penzotti said he had been asked by Chief Previte to request funding from the Board for a new vehicle. The department would like to purchase a 2018 Ford Explorer to replace a 2014 Ford Explorer. The total cost of the new vehicle is \$28,655 with a cost of \$2,400 to equip it. The trade-in value of the 2014 vehicle is \$7,700, leaving a balance of \$23,355 for the vehicle. The Police Dept. has \$10,000 from a DWI Grant towards the purchase of the new vehicle. The department is requesting funding in the amount of \$13,355 to supplement the balance.

Broderick said he and the Finance Director have discussed this. It has been given the approval from Atty. Parisi.

Bax MOVED to authorize \$13,355 from H-97 for the purchase of the 2018 Ford Explorer on behalf of the Lewiston Police. Seconded by Morreale and carried 4-0.

Engineering: Eng. Britton said the Town has solicited bids for construction of dog shelters. At this time, one quote has been received. Broderick tabled the matter.

Highway: Supt. Trane has been working with Bernie Rotella to help fund the bike path down Lower River Road. They have to widen it to make it ADA compliant. He is

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looking to do this project next spring. Once he receives the dollar amount to make it ADA compliant, Rotella said he would ask for a resolution at the next work session.

Grant Writer: Rotella thanked the Board for holding an emergency meeting on the \$30,000 JCAP Grant. Broderick said the grant had to be submitted by noon so they held an emergency work session that morning. The Board voted to approve the grant application. It is a non-matching grant for \$30,000.

Rotella said the Multi Model pre-application is signed today. It will be \$50,000 for the sewer project in Sanborn.

Finance: Blazick said the time has come where the Tentative Budget needs to become the Preliminary Budget. She has been instructed to make three changes:

1. The Board has elected to increase the salary of the Town Clerk by 2% from \$60,972 to \$62,192, an increase of \$1,220. The Registrar portion will stay the same. The full increase will be to the Town Clerk in the A-Fund and will reduce the A-Fund Contingency A00-1990-0400-0000. Schedule D will also change from \$60,972 to \$62,192.
2. The Board has elected to give the Fire Inspector Pat Martin an additional 50¢ an hour in addition to the 2% increase already included. This would increase the Fire Inspector's personnel budget B00-3410-0100-0000 by \$416. This will come out of the Fire Inspector's contractual, B00-3410-0400-0000.
3. Capital Improvements: SW1-8397-0401-0000 for \$14,536 should be Contingency or SW1-1990-0400-0000.

The above items are changes to the Tentative Budget for Preliminary Budget.

Bax MOVED to accept the Tentative Budget with changes outlined by the Finance Director as the Preliminary Budget. Seconded by Morreale and carried 4-0.

Bax MOVED to schedule a Public Hearing for Monday, October 30, 2017 at 6 p.m. on the 2018 Preliminary Budget. Seconded by Bax and carried 4-0.

Bax MOVED to schedule a Public Hearing for Monday, October 30, 2017 at 6:00 p.m. on Drainage District No. 1. Seconded by Morreale and carried 4-0.

OLD BUSINESS:

Lower River Road Water Issue/Bryk & Sons Payment: Bax spoke to Mr. Bryk requesting him to attend a Town Board meeting to discuss his version of what took place with this water line issue. Mr. Bryk was told to coordinate a time with the Town Clerk's office as to when he would come in.

Upper Mountain Road Concept Plan: Broderick said there will be no action taken tonight.

Bax said there have been concerns with residents that the Rubino Brothers provide Financial Documents that they have the where with all to do all three phases.

NEW BUSINESS:

Audit Report: **Bax MOVED to table for Board review. Seconded by Ceretto and carried 4-0.**

Board of Ethics: The Board received a letter from Earl A. Zortman resigning from the Board of Ethics, effective immediately.

Bax MOVED to accept the resignation, with regret. Seconded by Morreale and carried 4-0.

The Clerk noted that with this resignation and the passing of Susan Casper, there are two vacancies on this Board. The Supervisor announced that the public is welcome to submit an application to the Town Clerk's office to fill the vacancies.

Water/Sewer Re-L Levy: The Board received a request to place unpaid water and sewer accounts for the Town of Lewiston on the 2018 Town and County taxes. The breakdown of water and sewer is as follows:

Water	\$120,985.29
Sewer (Master)	\$ 81,770.50
Sewer (South)	\$ 9,737.32
Town Charge	<u>\$ 52,100.00</u>
TOTAL	\$264,593.11

Bax MOVED to place unpaid water and sewer accounts on the 2018 Town and County taxes. Seconded by Morreale and carried 4-0.

Assessment Review Board: The term of Domonic Balassone expires 9/30/2017. He is a State certified member of the Board and has been a competent member. If the Board wishes to re-appoint Mr. Balassone, it would be for the period 10/1/2017 to 9/30/2022.

Morreale MOVED to re-appoint Domonic Balassone to the Assessment Review Board for a five-year term expiring 9/30/2022. Seconded by Bax and carried 4-0.

Cold War Veterans Exemption: Chapter 290 of the Laws of 2017 authorizes localities to extend the Cold War Veterans exemption beyond the initial ten years previously allowed. To extend the exemption, taxing jurisdictions can adopt a local law or resolution stating the exemption will apply to qualifying owners without regard to the ten-year limitation.

The Town Assessor requests the Board adopt the Cold War Exemption Extension into local law.

Parisi said this is something he has to look over first. **Ceretto MOVED to table. Seconded by Bax and carried 4-0.**

Posa, One-lot Subdivision:

The Planning Board, on September 21, 2017, approved a request from Rinaldo Posa for a one-lot subdivision on the west side of Ransomville Road, SBL# 76.00-1-12.1, as presented.

Morreale MOVED to approve the Posa One-lot Subdivision, as presented. Seconded by Bax and carried 4-0.

Morreale MOVED a negative declaration on the Posa One-lot Subdivision, as recommended by the Environmental Commission. Seconded by Ceretto and carried 4-0.

The Planning Board, on September 21, 2017, approved a request from Kelly Lauber for a one-lot subdivision on the north side of Ridge Road, SBL# 101.12-2-10, as presented with the condition that a building permit is not issued until NYSHPO Letter of No-Impact is received.

Morreale MOVED to approve the Lauber One-lot Subdivision, with the contingency noted by the Planning Board. Seconded by Bax and carried 4-0.

Morreale MOVED a negative declaration on the Lauber One-lot Subdivision, as recommended by the Environmental Commission. Seconded by Ceretto and carried 4-0.

Head Groundskeeper Appointment:

Bax MOVED to appoint Jeffrey Lester to the position of Head Groundskeeper in the Parks Department at a rate of \$19.07 per hour. Seconded by Ceretto and carried 4-0.

Bax MOVED to authorize the Park's Department to advertise for applications for Laborer F/T at a rate of \$13.66 per hour. Seconded by Ceretto and carried 4-0.

Environmental Commission:

Broderick MOVED to appoint Cheryl Milicia as Secretary to the Environmental Commission at 2 hours overtime per meeting and an additional 2 hours overtime monthly at her hourly rate. Seconded by Ceretto and carried 4-0.

Halloween Hours:

Bax MOVED to set "Trick or Treat" hours in the Town of Lewiston between 4 and 7 p.m., October 31, 2017. Seconded by Morreale and carried 4-0.

PRIVILEGE OF THE FLOOR:

Rosemary Warren, Griffin Street, questioned the unpaid water & sewer accounts. \$120,985 in unpaid water is a lot of money. How much of that do you collect if people don't pay their taxes? Warren then mentioned art work on the walls in the Red Brick School building. She believes these pieces of art should be rotated to libraries, funeral homes and other public places for others to admire. She thanked the Board for considering the Cold War Veterans Exemption. Any exemption you can give them and their families, please do so.

Paulette Glasgow, The Circle, asked if the Audit Report would be on the website when the Town Clerk gets back. Broderick said it would.

Glasgow asked the Board and appointed officials to use their microphones. "The purpose of a meeting is for us to come and observe and hear what you have to say. We can't hear what you have to say when you don't talk into the microphone", she said.

Lastly, Glasgow said Lewiston's zoning establishes procedure that must be followed before a Conceptual Plan can be approved. One of the items that must be satisfied is that the Developer must show financially that he has successfully completed a development of the magnitude he is undertaking on Upper Mountain Road of over 100 units. One can only deduce that he has not met this particular criteria of Section 360-123(b)[17] of our Zoning Law. Since he hasn't done this, any consideration of approving this plan should be refused.

Furthermore, we have spoken about a potential traffic problem on Bronson Drive. One of your responsibilities is to be sure of the health, safety and general welfare of the citizens. You're going to have some potential problems there with thousands of vehicles, school buses and ambulances going down Bronson Drive. You have a safety problem and general welfare problem for the residents that live there and those that travel down Bronson Drive. Because there are so many issues pending that have not been fully addressed the PUD should be sent back to the Planning Board.

Don Anderson, The Circle, said he is adamantly opposed to the Upper Mountain Road PUD Concept as there are many issues with the PUD that would cause harm to the community. We were told we have to move forward on the PUD to get some of our questions answered. They are many serious issues that need to be addressed in the next phase. There are plenty of things that need to be handled before the Concept Plan moves forward. We need to get things done right the first time. I would like the Board to focus on things that we already know instead of talking about those questions that need to be answered later. We know the community is overwhelmingly opposed to the

project. We know that the units being proposed are drastically out of character of what is already there. The small number of units that are similar to what are being proposed to be built are disproportionate of those units on the market now. Those units on the market now have been on the market for up to two years. They have been devalued two, three or four times. They still can't sell. There are also a lot of other residents in Saddlewood that would like to sell their units but the market is already flooded. They are afraid to put those units on the market. The evidence says there is no market for high-density townhomes. We heard from the builder about a phantom list of potential buyers and a mythical group of snowbirds. If you look at the evidence, it doesn't exist. The market is not there.

Our main issue is safety. There are no sidewalks on Bronson Drive. There are no shoulders. There are no lights. There is an issue with speeding because it is a long straight street. If you push thru a PUD like this without addressing the safety issues, we could end up with fatalities. We don't want that to happen. I would like the Board, at the next meeting, to deny the PUD as it stands. Send it back to the Planning Board. Let's work together to make it safe. Put something in there that enhances our neighborhood.

Marsha Buzzelli, Hackney Lane read a letter written by of her neighbor, Elizabeth Doherty M.D.: I have spoken before this Board and the Planning Board regarding the Rubino's proposed development. I am frustrated by what I perceive as the Board's lack of support of or real true interest in the area residents' concerns. I want to remind you that we elected you to represent us and speak for us. The Rubino's only represent themselves and the money they hope to make from this project. As our elected representatives, you are OBLIGATED to vote against the proposed plan because a majority of your constituents are against it. Many of us are under the impression that you have always been in favor of this development, and that these meetings and hearings are perfunctory.

So, this begs the question – why would you vote against the will of YOUR people? What could possible motivate you to vote against us? Think about it, people.

Joe DiMino, Bronson Drive thanked Councilmen Morreale and Bax for coming out to the area proposed to be developed. When you come out and see where the boundaries are, it helps you to realize what impact is proposed to take place. DiMino then addressed the traffic study which was recommended by the Planning Board. This study was paid for by the proposed developer, he said. It appears they received exactly what they wanted -- a report that informs the Planning Board, Town Board and the residents absolutely nothing. It was a gesture to shut us up. People who live on Bronson, James, Elliott, The Circle, and in the Saddlewood development are concerned with the increase in traffic volume for safety concerns. A brand new road is being proposed but the study did not include Bronson Drive at all. In fact, the final report never even mentions Bronson Drive. Why would they pay for a study on a road that isn't involved – that being Upper Mountain which was mentioned primarily in the study. Some of you have mentioned the deep concern of a lawsuit being filed for not allowing development to take place. Yet, not so much as even a whisper of thought for a public safety issue. A proper study should have centered around Bronson Drive. The developer has shown very little willingness to properly meet Lewiston's demands.

The 1982 plan, currently in place, show a 66-ft stone-based road only to be used as a service road or access road for emergency vehicles. The Town Ordinance requires a 30-ft minimum setback. Why then, would it be fine for a developer to build a road that violates the setback to our law? A road built to be used for daily traffic off of Bronson would not fit. That is why the 1982 Plans indicate a stone-based road only. Whoever drew up that plan in the '90s realized this. Apparently, a second access plan was necessary for emergency equipment. Simply put, there is not enough space between the two existing homes. One of them is mine. It's now apparent that the road off of Upper Mountain is the only option for this project. I urge the Board to seriously consider that.

Where did the notion come from that the Town can be sued when all along the Town has the option if this plan is not approved it would revert back to the original zoning. Why is the Town not utilizing that right? If you pass this concept plan, you're stuck with it.

The Clerk read the following letter from John Jacoby, who was unable to attend the meeting regarding the Rubino Brother's project.

"Anecdotal evidence would suggest that in order to install sewer lines, water lines and some foundations construction blasting is very likely to be necessary. As a Battalion Chief with the Niagara Falls Fire Department I attended several annual "Dam Failure" meetings hosted by the Power Authority. These meetings were designed to keep area first responders current as to emergency preparedness for a break in the wall of the reservoir. It dawned on me recently that blasting within one half mile of the reservoir may have the potential to cause anything from a small leak to a catastrophic failure. One might correctly point out that much blasting has been done in that general vicinity over the years and offer that as proof that it will indeed be safe. The very real possibility exists that the effects of successive construction blasting may be cumulative and that each one has contributed too many faults and fissures that as yet have not been detected. The possibility exists, seeing as the reservoir wall rests on or near the same bedrock being blasted, it might precipitate a breach in the reservoir wall acknowledging the potential for catastrophe it would seem prudent that the Army Corps of Engineers be consulted with two questions in mind:

1. Is it safe to blast this close to the reservoir?
 2. Are the exiting Power Authority dam failure plans adequate to address this scenario?
- I would hope the Board considers this and takes the appropriate action."

Bax MOVED to enter into Executive Session regarding personnel and consultation with Attorneys. Seconded by Ceretto and carried 4-0. Time: 7:15 p.m.

Executive Session (minutes taken by Attorney Parisi)

Present: Broderick, Bax, Ceretto, Morreale, Blazick, Catalano & Parisi

Issues Discussed:

- 1) Personal Issue involving a particular employee
- 2) Consultation with Attorney regarding a claim against the Town involving property damage

No action taken.

Bax MOVED to exit executive session and adjourn Work Session. Seconded by Morreale and carried 4-0. Time: 7:37 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk