

**PRESENT:** Supervisor Broderick; Councilmembers Bax, Geiben and Morreale; Deputy Supervisor Conrad; Finance Officer Blazick; Attorneys Catalano and Parisi, Highway Superintendent Trane; Engineer Lannon; Building Inspector Masters, Water Foreman Townsend; Recreation Director Dashineau; Police Captain Penzotti; 2 Press; 55 Residents and Clerk Donna Garfinkel

**EXCUSED:** Councilwoman Ceretto

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

**PUBLIC HEARING** – Proposed Local Law - Amend Zoning Provisions § 360-29(B)

Clerk read notice into the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 23<sup>rd</sup> 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 the Zoning Provisions of the Town of Lewiston,” an abstract of which is as follows:

The proposed Local Law amends § 360-29(B) of the Code of the Town of Lewiston and the zoning map of the Town of Lewiston to change the zoning classification for a portion of land owned by Niagara University from “RR Districts: Rural Residential” to “Planned Unit Development 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.

By order of the Town Board - September 25, 2017

Supervisor asked if anyone wished to speak on the Niagara University Zoning change. No one spoke.

**Bax MOVED to close the Public Hearing, Seconded by Morreale and Carried 4 – 0.**

#### AGENDA APPROVAL

Bax removed Lower River Road water issue; Broderick removed Cold War Veterans Exemption; Parisi removed Chapter 360 – Special Use.

**Bax MOVED to approve the Agenda as amended, Seconded by Morreale and Carried 4 – 0.**

PUBLIC HEARING - Local Law Amending the Zoning Provisions of the Town of Lewiston

Parisi said there is a 31-day waiting period for responses to SEQRA letters sent out.

#### RESIDENTS STATEMENTS

McLavery, Tracy – Bridle Path Lane – McLavery attended the annual general meeting of the Saddlewood Homeowner Association. It seems the most important item on the agenda was the objection to the Rubino development. McLavery disagrees with this most-strongly. The Association is not comprised of only a number of members, it is comprised of everybody.

McLavery wrote a letter to all the attendants of the meeting along with the Town Board. Experts from the letter: Regarding the directive to the president to present to the Town Planning Board the objects of the majority at the meeting, knowing him as McLavery does, he will. McLavery placed it on record that his vote was in support of the development. McLavery asks all to consider the following: the Association negotiated a deal with the developers, which contains several benefits and concessions to the Association.

McLavery does not know nor have any connections with the developers, but fully believes the development to be beneficial to the Town as a whole, and particularly the proposed area.

From inquires around Town it would appear that the majority of the citizens are in favor of the proposal. It being human nature McLaverty doubts many supporters will attend a meeting in order to express that. Human nature again predicts that many of the attendees have a “not in my backyard” frame of mind.

Many people feel that all developers are untrustworthy and only in it for the money. It is McLaverty’s believe that the developers plan will be approved despite the great opposition of the Association.

McLaverty assures all that the Association does not speak for him. He can do that himself. McLaverty hopes the developer is magnanimous enough to over look the clear rejection of the agreement made by the Association.

Responses were received from some. One said they may not have all the information needed. Another response was very much in the camp of “not in my backyard”.

McLaverty purchased a home on Bridle Path Lane about 6 years ago and immediately joined the Homeowners Association, only to find that the Association was in the process of approving a very necessary contract of some \$45,000 to repairs to the drainage. McLaverty put a halt to that until further information can be gathered. McLaverty revealed that the developer had not conducted the drainage to code. The statute of limitations had expired; the Town had approved the drainage and issues a Certificate of Occupancy. There was nothing the Associations could do about the situation.

McLaverty continued to read e-mails that were exchanged back and forth between members of the Association.

The Home Owners Association had changed managing agents. The Board reaches advantageous accommodations with the purchaser, not just on drainage matters, but on land grass, height restrictions and building line setbacks.

McLaverty and his wife were in the market for another property, and had considered Saddlewood, but purchased a home in Deveaux. Too many uncertainties, surrounding property problems, rising maintenance costs, roadways will need attention soon.

McLaverty is now the Building Inspector of Wilson. The law is here for a reason. Developments are following the law and doing what it is they are required to do. It is their right. It is the residents right to object, go for it!! Unless your reasons fit the frame work of the law, you are whistling in the wind.

McLaverty read an e-mail to the Town Board from Rubino from October 17<sup>th</sup>. “My brother Joe and I have recently spoken to the NFBC regarding the statues of an existing playground, directly behind the parking lot. It was brought to their attention that it is located in a dangerous area, directly behind the parking lot. The concern is that a car could possibly drive out of control. They were asked if they would be interested in some of our property behind for more parking lots, and they are.

We have revised our Concept Plan showing the 9.79 acres to either the Town or the church. This would give the Town the opportunity to create a park with a playground. There is concern about residents walking on Bronson Drive. The walking path could be built in the new park to Bridle Path.

The Town might want the land donated to Lewiston first, then sold to the church.

We recently did a search on the Realtor system and there are currently no patio homes for sale in the Town of Lewiston. (End of reading from letter)

Warren, Rose Mary – Griffin Street – Warren feels every Veteran should receive the Cold War Veterans Exemption. They gave up their home life, earning money and being away from home. Please, a Veteran is a Veteran.

Broderick said the Town never had the exemption because there was no Town tax. Now that there is a Town tax, the Town needs to create a Local Law.

Lyle, Karen – Lower River Road – The Lewiston Taxpayers Accountability & Action Alliance (LTAAA) started to re-write the Town ethics policy. The current policy is close to 50 years old. The first draft was provided to the Town Board in October, 2016. The Alliance thought that it could help in the effort to update the policy. It has been a collaborate effort with Bax, Morreale and the current Ethics Committee.

Lyle presented the Board with an updated Code for consideration.

Bax acknowledged all those that took part in this process, Morreale and the LTAAA. A lot of hours were dedicated to reading, rewriting and discussion to create the presented document. Bax asked this be placed on Old Business to continue the discussion.

Dimino, Marguerite – Bronson Drive – McLaverty spoke of the playground and children playing; because it is unsafe. Dimino questioned the house right at the end of the proposed street coming off of Bronson Drive and how that's not safe. Bax asked, at the September 25<sup>th</sup> meeting if there has been any remediation regarding the street with the light flow into the home. Not only would the lights go into the home, but an automobile could go right in the home. Mr. Rubino said he spoke to the individual; Dimino would like to know who he spoke to. To the best of Dimino's knowledge he did not speak to the homeowner or her and her husband, or the neighbor. The developer is willing to place trees on the property to help. Will they put trees across the driveway?

At a past meeting Bax questioned Rubino if the traffic study only including Upper Mountain Road and not Bronson Drive is accurate. Rubino said he could not answer that 100%. Why not? Who ordered the traffic study?

At the September meeting Morreale suggested the Power Authority be contacted regarding the blasting. Has the Power Authority been contacted?

There is a lot of what appears to be "they're making fools out of you guys". They are not giving you complete answers.

Dimino thanked Bax for his letter. Bax stated in the letter that Lewiston is second to none when it comes to the quality of life. Think of the quality of life of those living on Bronson Drive, Saddlewood, Upper Mountain Road and what a change this will make in the quality of their lives.

Dimino feels Broderick has set the tone on how this project has been handled. The residents in the area have become frustrated and reacted to the way this project has been handle because of Broderick's attitude in portraying that this matter is a done deal. Broderick has had an excuse for, discounted and dismissed each and every concern that the large amount of residents voiced. Broderick has defended the potential buyers, validated both them and their realtor and have not had the due respect to the citizens. Broderick has basically just giving us a bunch of ear wash.

As Town Supervisor Broderick has been extremely transparent in his view on this high-density project, and extremely one sided. Broderick has simply forgotten who he represents; that is the citizens and their concerns for the Town of Lewiston.

Dimino, Joseph – Bronson Drive – Dimino presented a petition of formal objection to the Upper Mountain Road plan development under consideration by the Town of Lewiston. The petition has been signed by more than 20% of the property owners in the area of the land, included in such proposed changes, of that immediately adjacent extending 100 feet thereof.

Some of the Board and Town staff have been to Dimino's home and have seen the concerns with the road. Dimino has addressed safety concerns and concern of the study done. His concerns are genuine.

When referencing the 1982 plans, it does show there is a road that is designed to be an access point. It appears to be a very important part of the new proposal.

The residents have been hearing this plan is just a concept. Well Dimino has a concept, its "no". A majority of residents are opposed to this. If there are people that are in favor of it, let them show up, voice their opinion, much like the people who are opposed to and care to show up to voice their opinions.

Dimino spoke of Mr. McLaverty's comment about the phrase "not in my backyard". Considering the history that Lewiston has with past developers, Dimino would like to change that phrase to "not again".

Dimino asks the Board, that when it's time to vote on this, think long and hard about the long term affects of this.

Olejar, Steve – Niagara Frontier Bible Church (NFBC) – Olejar is the deacon at the church and represents NFBC's position on the playground/Town park on the church property. For the last several years NFBC has been privileged to be able to lease to the Town space for a Town park/playground as an outreach to the community on top of the hill.

This year the lease ended and NFBC reached out to the Town to continue with a new lease. It was NFBC's understanding the Director of Parks was not be in favor of continuing the lease. Some concerns were the unsafe access to the park on Bronson Drive and the greenspace requirements where the parking lot was encroaching.

NFBC submitted to the Board that they were willing to take back some the parking lot to meet the requirements to provide the playground for the community.

When Joe Rubino recognized NFBC dilemma, he reached out and asked if there was something they might be able to do. They own the property on the north and west side of the church. After meeting with Broderick and the Rubino brothers, a win win solution may be found for the parks dept. and the community.

The Rubino brothers are willing to donate property to NFBC to meet the greenspace requirement. The Town provides a walking path from Bridle Path Lane, a bridge across Fish Creek, and to the playground. This would provide a safe way to reach the park without walking on Bronson Drive. This will also allow the church to meet the greenspace requirements without disturbing the parking lot.

Olejar thanked John & Joe Rubino and Supervisor Broderick for reaching out to NFBC, and looks forward to further negotiations to continue to meet the needs of the community by providing the needed playground/Town park.

Jacoby, John – Lower River Road – Jacoby would like to address the blasting and the reservoir. The reservoir contains 22-billion gallons of water. There are two things that would make one take pause. One – when they built the reservoir they put various wells around the reservoir, done by the Power Authority. These wells are monitored to see if there is any seepage. So they recognize that it is a possibility.

Second – there is annual dam failure readings. All first responders are brought in. They recognize there could be a breach in the wall of the reservoir.

Does Jacoby feel there is going to be catotrsrtofic failure of the wall? Highly unlikely. If there is an existing fault; you have 22 billion gallons of water, sloop down Upper Mountain Road to where the blasting is taking place, with all the blasting that took place during the building of the reservoir and the subsequent blasting in the neighboring subdivisions, have an accumulative affect to cause faults unknown to all, it could hit just right. There could be a major seepage.

If you think you had a water problem at Riverwalk, even a little leak from 22 billion gallons could be horrific. The wise and prudent man would say – Army Corps of Engineers should take a look at it.

Wilson, Amy – Bronson Drive – Wilson feels the idea from Mr. Olejar is a wonderful idea. How nice that people can walk over a bridge. That will benefit Rich Lowe and the new house. Wilson

does not believe there are any children in the Saddlewood Development. So what about all the children and their parents that have to walk all the way down Bronson Drive in order to get to the bridge.

In regards to the traffic study, Wilson has lived on Bronson since 1984. People do not do 30 mph on Bronson Drive. Wilson described an issue with speeding cars. There will now be people walking down Bronson Drive to the playground with people whizzing by them at 45 mph.

The plans from 1982 called for a 30 foot buffer. That did not happen. There are two homes behind Wilson's with no buffer.

The plans that were presented in 1982 can't be found anywhere in Town Hall. It is as if they sprouted legs and took off. How convenient. Everything about this proposal is "how convenient".

For people to say "What's the big deal?" These lots are to be 66 feet across, which will leave 10 feet between houses. If Wilson wanted to live in the city, she would have moved to the city. Something is not right. Wilson can feel it and she can see it in the Board's faces.

Swisher, Paul – Carriage Lane – Swisher attended the meeting last week with McLaverty. Out of the votes that were cast at that meeting, two were in favor of development. Other than McLaverty the other vote was more as seeing it as inevitable and trying to make the best of a situation that nobody really wanted. When it is referred to as a majority; there were 30 – 40 people in attendance, so everybody except two people were against it.

In reading the e-mails that have gone back and forth with McLaverty and others, Swisher says McLaverty presents himself as intellectually superior, which may or not be true, but he has a blanket dismissal of the others concerns. The casual dismissal of the concerns, Swisher took offense to.

Swisher has lived in Lewiston for just over a year. This is the third time he is making this statement. Swisher came here because he loves Lewiston. If they wanted to live on top of somebody and sit in traffic waiting to go to the grocery store, he would move to Williamsville. Lewiston has character.

If the development goes through, maybe the taxes will go down a little bit. But for Swisher, paying a bit more for space and beauty is okay.

Swisher was told from the builder, Don Smith, during the time he was purchasing his home that the likely-hood of any development, was very unlikely. If it were to occur it wouldn't happen for a long period of time. That was one year ago.

Mann, Jerry – Village of Williamsville – Mann's mother lives in Lewiston and his two daughters have businesses on Main Street in Lewiston.

Mann his here to promote the Rubino brothers as quality people. The need for new development in Lewiston is there. Mann would love to come back to Lewiston. He is ready to down-size, his mom is ready to down-size, and his daughter would like to buy a home. Mann suggested the Board approve the Rubino project.

Schultz, Earl – GUI's Lumber – Town of Akron – Schultz is here to promote the Rubino brothers. As an employee of GUI's Lumber, Schultz has worked on several projects of the Rubino brothers.

Schultz has attended many meetings like this with "Not in my backyard". Nobody likes change. However, these are the most qualified people I have ever done business with. They get the job done and making the home purchasers happy.

Schultz has stood shoulder to shoulder with the Rubino's doing repair work at all hours and on weekends when customers complain something was not done right.

Schultz presented a document from the National Association of Homebuilders with an impact study done showing the economic impact of 100 patio homes in a community.

In regards to the gentleman that spoke on the majority, 20% of the people signed a petition; 20% is not a majority.

There are a couple of people that are squeaky wheels about not getting what they want because they don't understand the fact that there are other people's opinions. When other people's opinions are dismissed, and a few people, a minority, are left to rise to the top. Most people that are for this development are sitting at home enjoying themselves.

Most of the people that live in patio homes have zero impact on schools. These are empty nesters. They drive less than 50 miles a week. In regards to the speeding on Bronson Drive, call the Police, not the Town Board.

Wild, Jerry – Williamsville – Wild is in charge of the marketing and advertising for Cheap TV on Niagara Falls Blvd.

Wild has studied Towns to advertise in. When advertising in Clarence for the first time, the numbers of sales were coming from the new developments of townhouses, condos and patio homes.

Wild thinks of Lewiston in the same way. People who will be coming here to down-size will enjoy the quaintness of the Town. This will be a good thing going forward with the quality of work the Rubino brothers do.

Nashwinter, Patricia – The Circle – Nashwinter wants to clarify something to Schultz. The petition has been signed by more than 20% of the property owners of the area of the land included the such proposed change or immediately adjacent to the property. This is pursuant to NYS Town Law, Section 265, Chapter 360, Section 360 – 1234a.

Hood, Roger – Lockport – Spends a lot of time in Lewiston and he can attest to the fact there are no patio homes for sale in Lewiston. There is a demand for them. Hood has met the Rubino brothers because he is looking for a home.

Doherty, MD, Elizabeth – Bridle Path Lane - Spoke regarding the gentleman who has defended the Rubino's. Doherty doesn't think any of this is about the quality of their work; it is the impact on the neighbor and the environment.

As far as hunters, McLaverty seemed to down play the concerns of the hunter who likes to hunt on this undeveloped land. Doherty doesn't like hunting, but understands that people do. As long as there is undeveloped land and there is no objection by the owners, that is his right also. That is one of the beauties of the area; there is so much undeveloped land.

As far as the demand for patio homes, Doherty doesn't understand the appeal of a patio home verses some of the units in Saddlewood. For those people looking to down-size; there are some lovely units available in Saddlewood that aren't selling, including some of the end units.

These speakers are from other Towns and don't understand the impact on our community.

Rubino, Joe - Developer – Rubino thanked all those that spoke in favor of the project and their reputation. The Rubino brothers do have high standards.

The land in question is zoned Planned Unit Development, it is zoned for what is proposed, they are not asking for a rezoning. It is not zoned Agricultural or Industrial, it is zoned Planned Unit Development. There is a process the Town puts in place for a developer, or land owner to develop their land.

Rubino appreciates working further with the Town, also the new developments with the church and the park. Hopefully this will help those residents wanting to utilize the playground.

Geiben appreciates how respectful everyone was to each other, and hopefully they continue when the meeting is over.

#### DEPARTMENT HEAD STATEMENTS

Water Foreman Townsend – The maintenance and winterizing of fire hydrants is continuing throughout the Town. There are over 900 fire hydrants in the Town and this takes a couple of months.

Townsend thanked Superintendent Trane for the repair work with black topping.

Townsend thanked the Town Board for its efforts in the last couple of years to get the Water Improvement Project going.

Highway Supervisor Trane - Trane distributed paperwork for Jersey Style Barriers to be placed at the end of Indian Hill and Ridge Road. There was an accident where someone drove through the current ones and Trane would like to update the barriers.

The Jersey Style Barriers, for all 16, are a total of \$230.00 more than the lowest bid. These barriers set up with solar flashers, are taller and better built. They will be filled with sand. Catalano asked if there is a State bid for this. Trane said no.

#### **Geiben MOVED to approval the expense of \$5,722.85 for the Jersey Style Barriers, Seconded by Morreale and Carried 4 – 0.**

Wolf Run has already been dedicated, accepted and approved. The Department of Transportation is requesting a resolution.

#### **Bax MOVED the following resolution in regards to Wolf Run**

WHEREAS, Wolf Run was constructed as a Town Road in accordance with plans and specifications prepared by Engineering, and

WHEREAS, the two-lane road is .33 miles in length and consists of a new drainage system and curbs, and

WHEREAS, construction of Wolf Run has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town and is currently open to vehicular traffic for the public, no, therefore be it.

RESOLVED, that Wolf Run shall be included in the 2017 Town Local Highway Mileage Inventory of Town streets; and, be it further

RESOLVE, that New York State Department of Transportation is requested to include Wolf Run in the Town of Lewiston inventory of streets.

#### **Seconded by Geiben and Carried 4 – 0.**

Town Clerk Garfinkel

Clerk read a request from the Senior Center to declare a lawn mower excess and obsolete equipment.

Geiben asked that other departments be asked if they would like it.

#### **Bax MOVED to declare the lawn mower at the Senior Center as excess equipment, Seconded by Geiben and Carried 4 – 0.**

#### **Geiben MOVED to contact Ritter at the WPCC to see if he is interested in the lawn mower, if not it can put on Auctions International, Seconded by Morreale and Carried 4 – 0.**

Garfinkel thanked the Town Board for approving and allow the main meeting room to be what you see today. Most of the remodeling has been completed. There are still things to be done, but it looks great.

Garfinkel thanked Tim Masters for his help/assistance with the remodeling, in doing the thing that Garfinkel didn't have knowledge about.

#### AUDIT PAYMENT

**Bax MOVED to approve the Regular Abstract of claims numbered 2932 – 3083 and recommend payment in the amount of \$186,873.57 plus a Post-Audit for \$8,061.34, Seconded by Geiben and Carried 4 – 0.**

#### OLD BUSINESS

Dog Shelter – Lannon prepared a bid packet, contacted five (5) contractors, forwarded the packets, followed up with them, and received no bids by the end of the bid date. Lannon received one (1) bid two or three days after the bid date. At this time there is nothing to recommend for an award.

Lannon followed up with some of the bidders and some said too busy and others not interested. Maybe get this out for a spring bid.

Garfinkel said she has been notified that a Grant period has opened for municipalities to apply.

Broderick asked the opinions of the Attorney, on just getting one bid. Parisi said a lot depends on the exact circumstance of the situation. One bid can be enough if showing that that is all that is available.

Geiben suggests the Town continue with the contract with Wilson, complete the application for the grant, and hopefully there will be contractors interested.

Upper Mt. Road PUB Concept Plan – Rubino Brothers – Bax thanked all for coming out tonight to speak. Some comments were made about this being a done deal. This should not characterize this Board's attitude toward the project. With the delays and amount of consideration going out to the homeowners, walking the site, and discussing all concerns, Bax would like to say the Board is taking this very seriously.

The residents that voted for us to make decisions, and here to make difficult ones, and often times making 5 – 0 decisions, it is not always the luxury of doing that.

At the last Board meeting there was discussion about additional assurances the developer could provide. Bax believes the Town received the financial assurances from the bank and the traffic study. The quality and nature of the study, the Town Board is wrestling with whether it meets the requirements or not. There was a question whether the SEQRA requirements have been met. Catalano said the SEQR has been done.

Bax restates his thanks to the developer, which at every request is willing to come to the table and discuss these difficult issues. In Bax's experience on the Town Board, this is not always the case.

Bax completely appreciates and thanks the residents for coming out, week after week, restating their concerns and their genuine fear that the quality of life could be threatened.

Broderick believes what he told Mr. Dimino directly, was "you guys are up against it". Broderick never said it is a done deal. Broderick researched this, talked to the Building Inspector. This is an existing PUD.

It is Bax's hope, that through this process, with a lot of conversations, which is a good thing, has made the project better.

Now that the additional items have been submitted, according to Town Code, the Town can take additional time to continue these discussions. Bax has an issue with the park. The Town should not take on any additional responsibility for greenspace.

Catalano said the items were received on October 9<sup>th</sup>. That would not give the Town an extension from what is already in place with the 61-days. The 61-days are up November 12<sup>th</sup>. Catalano has spoken to the Rubino brothers and they have consented to a 3-day extension of that time. This can now be done at the Work Session of November 13<sup>th</sup>.

Morreale would like some guarantees on the project. The road out to Upper Mountain Road must be put in. The traffic study only works if the road to Upper Mountain Road is put in. Sidewalks should be discussed.

Catalano said that during the next stage, the Detailed Plan, it is in the Town Code that a complete detailed traffic study must be done.

Bax's major concern is the safety of the residents going up and down Bronson Drive. The speed can be addressed by the Police Dept. A sidewalk would be a good idea.

Broderick asked a resident how she feels about a sidewalk on Bronson Drive. She said she can't speak for the neighbors but for herself; they are thinking about moving out of the State anyways.

John Rubino asked to speak. The current Saddlewood Development has one way in and one way out. The Building Inspector and the Fire Chief have told the Rubinos, this is a big concern for the Town. Phase 1 will put a secondary access road on Bronson Drive to address the current egress issue.

The land is zoned PUD. It is multi-family zoning. Rubinos are proposing detached patio homes. They are different from attached units; it is a totally different market. There is a demand for them. Rubino has done real estate for 38 years, and has spoken to local agents and they say there is nothing on the market now.

Rubino said one could call their local realtor and say "I'm looking for a patio home in Lewiston. What's on the market?" There is nothing on the market right now in the entire Town of Lewiston. There is a demand; there is nothing on the market. It is a supply and demand, and right now there is no supply.

There are people that want to down-size, and they want to stay in Lewiston.

Morreale doesn't understand Rubino's market study; the Board hasn't been entitled to seeing anything. Rubino said he will give Morreale something. What if these \$275,000 to \$350,000 homes are built and they don't sell. What is to stop Rubino from coming in, putting up cheap housing, just enough to get your money and then get out of dodge?

Rubino said there are no guarantees in life. There is always a risk when you are a home builder or developer, but Rubino would not be risking a lot of money to get this project started again. This is a project that stalled years ago.

The project is new ideas based on the current market. Rubino has spoken to people. The people that live close-by have big houses and they want something smaller. A patio home is an unattached house. There is a homeowners association that takes care of the outside of the property - lawn maintenance, snow plowing etc...

Rubino said residents have commented that they have nothing at stake here. They love Lewiston. They live 29 miles away, in the Town of Amherst. They are not out of towners.

As far as Rubino knows there will be no blasting. There was no blasting in Saddlewood, so Rubino doesn't understand why there would be in the new subdivision. If blasting was necessary there would be a survey of the homes. The blasting company would hire a surveyor to go into everyone's basement. Bax asked if the Power Authority would be contacted. Rubino said whoever

would be affected by this will be contacted. These homes will have a full basement unless requested by the purchaser to not have one.

Geiben stated the Board is bound to follow the law, and suggests residents download the zoning law for PUD, look it over and see if there are additional questions.

Geiben said the Board cannot discuss the project with three people in the room. The Town Engineer is bound to answer all questions from an engineering viewpoint.

Rubino feels the playground/park/walking trail is a win-win situation for all.

**Bax MOVED for a Public Hearing for a Local Law for the modification of the current PUD to include the Concept Plan for November 13, 2017 at 6:00 pm, Seconded by Geiben and Carried 4 – 0.**

Cold War Veterans Exemption – Parisi - tabled

NEW BUSINESS Clerk's Correspondence None

#### SUPERVISOR BRODERICK

Meeting request - 4 Fire Co. – The Board received a letter from the Fire Companies requesting to meet and discuss funds that were set aside to build a Haz-mat building. They are requesting to use the money to purchase four vehicles to haul Haz-mat materials. Broderick said Seaman was going to make a resolution to remove the money out of the fund and put it back in the General Fund.

Parisi said this would be a prohibited gift. These dollars are contracted with the Town and can't just be given. These monies did not come from the Special District Tax for Fire Depts. it came from the Town's General Fund.

Broderick said based on the Attorney's recommendation, the Town is not permitted to transfer the funds to the Fire Company. Blazick spoke to the Comptroller's Office and they too said it is not an authorized use of these funds.

Legal – Already discussed

Engineering – The Water Dept. is pursuing the installation of a new fire hydrant at NYPA. The bids will be sent out October 24<sup>th</sup>, with hopes to have something for consideration at the November 13<sup>th</sup> Work Session.

Finance

The Town received two vouchers which need to be paid prior to the next abstract. Blazick requests authorization to pay them post audit.

**Bax MOVED to authorize payment to Niagara County Water District in the amount of \$1,012.76 and Copier Fax in the amount of \$145.09 on Post Audit, Seconded by Morreale and Carried 4 – 0.**

The meeting room/court room remodel expenses are in excess of grant funds and the Board discussed taking necessary dollars from Contingency; however, this was never authorized. Additional funds needed for the rotten wood replacement that was found when they tore the meeting room apart. During this same time there was an issue with the furnace and the disconnect box requiring a \$675.00 fix.

**Bax MOVED to transfer \$13,607.00 from Contingency - A00-1990-0400-0000 to Building Contractual - A00-1620-0400-0000, to cover the additional cost of the remodel and the disconnect box, Seconded by Morreale and Carried 4 – 0.**

The expenditure was approved for the PEG equipment, but the fund transfer was not authorized.

**Bax MOVED to authorize the transfer of \$2,253.98 from B00-0000-0691-1170 - Deferred Revenue, this is an increase to B00-1997-0200-0000 - Town Equipment and B00-1000-1170-0000 - Franchise Tax Revenue for net effect on the budget of zero, Seconded by Morreale and Carried 4.**

The Senior Equipment line needs to be increase by \$307.32 to cover the cost of a new lawn mower.

Police budget needs to re-class money from health insurance to Union benefits. A Town Hall staff member moved to the Police Dept.

**Bax MOVED to reclassify \$307.32 from Senior Contractual to Senior Equipment, Seconded by Geiben and Carried 4 – 0.**

**Bax MOVED to reclassify \$20,000 from Medical to Union Benefits, Seconded by Geiben and Carried 4 – 0.**

Accept Statement of Changes and Basic Financial Statement from Independent Auditors

**Bax MOVED to accept Statement of Changes – Independent Audit and Basic Financial Statement – Independent Audit, Seconded by Morreale and Carried 4 – 0.**

Board members received an application for the Board of Ethics. Broderick said the application will be considered, but it needs to be determined if this individual can serve on more than one board.

#### COUNCILMAN BAX

Liaison Report

Accept Bids for excess equipment – Auctions International

**Bax MOVED to accept the following bids from Auctions International: Toro Hydro Walk Behind Mower - \$52.50; John Deere Snow blower - \$57.50; Toro Proline Walk behind mower - \$87.50; Kubota mower - \$260.00; 1995 Chevrolet GC2 pickup - \$270.00; EZ Go Golf cart - \$62.50; Robins Water Reel - \$360.00; Dixi chopper zero turn mower - \$1,325.00; John Deere Gator utility vehicle - \$2,225.00; Jacobson reel mower - \$175.00, Also reject the bid for the 2005 Jacobson Groom Master with a high bid of \$310.00, and except the bid from Royalton Hartland CSD for \$750.00, Seconded by Geiben and Carried 4 – 0.**

COUNCILWOMAN CERETTO - Excused

#### COUNCILMAN GEIBEN

Liaison Report

The Town received the Risk Management Report and Recommendations from HHC, Town insurance carrier. There are recommendations regarding two buildings and the parks.

Geiben will address the Senior Center and Parks Dept. issues. Bax will address the Highway Garage.

#### COUNCILMAN MORREALE

Liaison Report – nothing to report

#### RESIDENTS STATEMENTS

Correa, Nancy – Riverwalk Drive – Correa read a statement from Paulette Glasgow.

“The Lewiston Taxpayer Accountability and Action Alliance and I Paulette Glasgow, personally wish to thank Karen Lyle and other members of the Alliance for taking on the task of voluntarily updating the Town’s forty-year old Ethics Policy.

Spearheading this task, Karen Lyle devoted endless hours of research in drafting various proposals for consideration.

Approximately eighteen months ago, the Alliance started the process for updating the Ethics Policy. A draft policy was presented to the Board a year ago which incorporated prevalent sections of the current policy. Most other sections of the current policy were outdated and/or omitted current law and issues of importance. The draft lay dormant for many months without Board discussion or feedback. Ongoing inquiries by the Alliance as to its status ensued. Eight months ago, during one

of those inquiries, the Supervisor responded with his displeasure with the draft. The Alliance asked the Board to change rather than further ignore it.

Mr. Bax and Morreale volunteered to meet with the Alliance to work on revising the draft. Mr. Bax presented eight different copies of ethic policies by various government entities to study, discuss and incorporate into our draft when appropriate. Most of those policies proved to be outdated and incomplete. Mr. Bax and Morreale and the Alliance decided that only one presented viable information and referenced current State law. Those have been incorporated in our updated draft.

Karen Lyle from the onset has continued to chair numerous meetings, diligently noting changes, revising copies and leading discussions. Changes have been ongoing with precise attention to detail, wording and their meaning. These were incorporated into the final draft which is now presented for your consideration.

The majority of work has been done by Karen Lyle who undertook and kept this effort going from its inception. We want to recognize her efforts and thank her.”

Jacoby, John – Lower River Road – Jacoby wants to go on record as being extremely opposed to out of town residents speaking during the resident’s statement portion of the meeting. Jacoby hopes the press reports that the ground-swell of support for this project came from Akron and Williamsville and other communities. Town residents come first.

There is a persistent rumor about the access road and it requiring variance. Catalano said there is nothing there that needs a variance.

Masters said it is a full 66-foot right-away, there is no variance needed.

Dimino, Joseph – Bronson Drive – According to the 30-year old plan, it shows a service road. Dimino fully understands the necessity for emergency equipment, and a firm believer in if you are going to point out a problem you better have at least one solution to offer if not two.

Dimino has offered three. If the access is necessary how about a gated service road, or single lane one directional road. In 30 seconds Dimino has offered the Board two solutions to a problem, which just seem to go in and out of their ears.

In regards to the 30 foot setback, the Board is going to force a developer to abide by a 30 foot setback on their proposed concept. Then when it goes into place, it’s not going to be in effect on the existing buildings that are there. It is not the 66-foot right-a-way; it is the house on both sides that can’t meet that 30-foot setback.

Broderick asked Masters if the 30-foot setback is in the front of the house. Masters does not know what 30-foot setback Dimino is talking about. Dimino showed Broderick what he is talking about on the map. It is a 30-foot setback on the front and side of his house. It cannot be met with Granto’s residents and the two houses back.

The Board will offer variance to a developer and go against two existing tax paying residents? That is why the access road was always intended to be service or emergency access only. The 30-year old plans indicate that it was a stone base.

Bax and Broderick both stood in Dimino's yard and saw how close his garage is and where the road is going. The same thing is occurring at Mr. Grant's home. Dimino does not want cars whipping by. The developer wants to put in two lanes and a gutter.

Conrad said the developer did not want to put the road in there. It is a more cost effective idea. The Fire Code is forcing the developer to put the road in. If it is a one way road, you will have every car coming into the development and out of the development will use that route; it is the same amount of traffic. There are a lot of things that are looked at when making the decision to go one way or the other.

Dimino said a one lane road would be narrower. With regards to the safety issue it only requires a 22-foot wide road for one piece of fire equipment. A ladder truck would require 26-feet.

Dimino said developers come into Lewiston and they ask Lewiston to jump and Lewiston says how high, and others ask how long you would like us to stay up in the air. Lewiston should be making demands on them.

Dimino said he is speaking and feels like the Board just doesn't want to listen. Broderick said the Board is listening to every word.

Dimino invited Masters to come to his house.

Warren, Rose Mary – Griffin Street – Warren feels the dog shelter is getting to be too big of a project and suggests a Bocces Project or Work Release project.

Brandt, Nadine- Pletcher Road – Brandt wants to caution the Board on Rubino's comment there being no patio homes in Lewiston, yes there are – Riverwalk – it's not going away.

Nashwinter, - The Circle – Nashwinter wants the Board to understand that no one is opposed to any development back there, the magnitude and the problem it will cause is beyond belief. Not saying don't develop, just 130 homes is too much. Patio life homes are just another form of going down Ontario Avenue in Niagara Falls.

Dimino, Marquette – Bronson Drive – Catalano keeps saying the 1982 plan is approved, let them build that. Dimino wants to know why they can't build that. Catalano said the Concept Plan from 1982 has been approved.

Hazily, Martha – Carriage Lane – Hasley moved to Carriage Lane about 7 – years ago. She grew up on a 100-acre farm, went to college then went to live for 45 years in Japan. Japan is a one of the most densely populated areas on earth. Her house had a street, about 10-feet from the house in front, on the side and behind.

Looking through her window here, she enjoys nature. There are times where there are turkeys, deer, birds, rabbits and coyote.

The back of Hasely's home is about 10 feet from the property line of the development. So it will be like going right back to Japan. It is a great disappointment.

Maybe Rubino should consider building a wildlife strip. This allows the wildlife to go from one woods to the next.

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

Transcribed and  
Respectfully submitted by:

Donna R. Garfinkel, Town Clerk