

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Geiben, J. Jacoby & R. Morreale; Chief F. Previte; Finance Director J. Agnello; Budget Consultant M. Blazick; Attorney R. Parisi; Eng. B. Lannon; Hwy Supt. D. Trance; Acting Water Former D. Zahno; Rec. Dir. M. Dashineau; 1 Press; 50 Residents and Dep. Clerk C. Schroeder

Excused: Deputy Supervisor Conrad

The Supervisor called the Public Hearing (continuation of the proposed Swann Road Solar Farm Project) and Work Session to order, followed by the Pledge of Allegiance and a moment of silent reflection in remembrance of the victims of 9/11.

The Supervisor asked if anyone wished to comment on the Public Hearing opened 8/27/18.

Susan Slye, Swann Road, wanted to bring up some facts as to why she is against the project. She researched the Town of Lewiston Comprehensive Plan. There are guidelines that access current and future policies and decisions that are recommended as a basis for making zoning decisions. Page 6, Agricultural Land Use states "The Town of Lewiston supports agriculture as an important component of the Town. It contributes to rural character and is a significant element of the Town's economy. Policies should discourage converting active agricultural land to non-agricultural use and encourage the maintenance of State Agricultural Districts established under Agriculture and Markets Law Article 25AA as tools in support of farming..." You're taking away viable farm land by installing solar panels.

At the last meeting, she asked for references of past projects from Borrego Solar. Lindsey McEntire, Project Developer, sent only one project from Houghton College. It was a project that generated 2.3 mega-watts and used primarily for the college. Very few community residents benefitted from that project. They were using it for the institution. They are located in a rural area, next to a thruway. It is totally unlike our neighborhood. It was very uncharacteristic the reference she sent me.

Slye said she has a lot of concerns about the noise. They say it is an ambient noise. Constant humming by a generator or transformer in my mind is not an ambient noise. I'm concerned about the visual aesthetics. We're concerned about property values going down. Who wants to live next to an industrial plot of land? This property will not generate taxes. It puts a burden on the residents in the community.

If there are any issues or problems, according to the Solar Law, one is supposed to go the Building Inspector to discuss these concerns. The solar field is going on the Building Inspector's land. There are supposed to be yearly inspections done by the Building Inspector. How does he inspect his own stuff?

They are offering a 10% discount. That comes out to \$20 - \$40 a year per resident. I don't see that as a significant savings. Most of the power generated will go to the company and the power grid.

I have concerns about the lighting that this facility may use. In a rural area when it is dark you see stars. I don't want look at their lighting.

Slye said her property abuts the project in question. She has a lot of ash trees on her property. They are very tall. Because the trees are dead, they could fall over on to a solar panel. This would put a liability on her because she would be responsible for replacing the panels. She was told by Mr. Masters that this would not happen but she does not have that assurance.

Slye has a lot of conflicts with the Solar Law. §360-218(C)(5) indicates the height of the ground-mounted solar energy system shall not exceed 10 feet. §360-218(C)(7) says "the total surface area shall not exceed 5% of the total lot area." This project is much larger than that. §360-220(F) indicated that the utility scale solar energy system shall only be located in a rear yard if there is a dwelling on said lot. The transformers look to be on the side of the front portion of the property.

With all these issues, I don't feel this is a good fit for our neighborhood. It is a liability and is unfair to the neighbors. There are better suited areas in a more industrial area where this project belongs. Please consider these thoughts and remember your Comprehensive Plan.

Broderick said no decision would be made tonight. He welcomed Ms. Slye to come talk to him with her concerns.

Stefanie Henry, Swann Road, said she and her husband live adjacent to the project. She researched the Solar Law that was adopted earlier in the year. It indicates the set back requirement is 200-ft from all property lines and should be maintained. From what she sees, it is only a 100-ft. set back. How is this allowed when the law says 200-ft? Henry asks for landscape screening to limit the view for her and her neighbors of the solar panels. She has a one-year old child. She has health concerns of the chemicals the panels are made of leaking into the soil thru water run-off.

Tim Cantrill, member of Local 237, said he has worked on a number of these projects. A project of this size will generate 40 to 60 jobs. Every dollar on infrastructure spending generates two to three dollars in the local community. I would like this thing to go thru. It would be great for union members.

Fred Dumais, Local IBEW 237, said they are looking to benefit from this project. Although temporary, it produces work for their members.

Tobin Gormley, Swann Road, said the property now is a field of corn. It's beautiful. Lewiston loves corn. Referencing the Future Vision Map with respect to the Comprehensive Plan, Gormley stated, "The approach of this Comprehensive Plan is to provide a more general Future Vision Map. The vision map provides sufficient guidance to direct the type of development that is envisioned for different areas of the Town while remaining flexible enough to accommodate changing circumstances. The Vision Map is intended to identify opportunities and priorities for sectors of the Town so the character of those areas remain true to the Town's vision for them. In general, the eastern sector of the Town (where I reside) is identified as Rural/Agricultural in character. Development in the eastern portion of the Town (generally east of Porter Center Road) should strive to maintain that rural atmosphere. For example, design should work around natural features and attempt to preserve these features where feasible. Agricultural and rural residential uses are preferred over commercial uses..." When you look at the map, it is all rural agricultural – a little different than the map of the proposed project.

With respect to Special Use Permits, it states, "The criteria to provide the Town with greater control over the implementation of problematic uses, facilitating the ability to institute buffers or other controls to minimize impacts from development to neighboring uses." That is important to me as to what we're going to see or not see.

With respect to Economic Land Use, "The Town of Lewiston supports new infracture and businesses. Industrial development should be carefully planned to ensure adequate buffers (setback and landscaping) and to minimize any negative impacts."

With respect to Agricultural Land Use, "The Town of Lewiston supports agriculture as an important component of the Town. It contributes to rural character and is a significant element of the Town's economy. Policies should discourage converting active agricultural lands to non-agricultures use and encourage the maintenance of State Agriculture Districts established under Agriculture and Markets law Article 25AA as tools in support of farming.

This all started with the Town of Wheatfield. I know Lewiston had to put something in place because these companies are coming into Town to put up Solar Energy Farms. Wheatfield came up with a boiler plate document that the Town of Lewiston adopted and made its own subsequent changes. Of interest, in the Wheatfield's document issued 1/12/17, they define solar sky space as a space between solar collector and the sun thru its solar radiation passes. Someone in the Town took it upon themselves to add to that definition "solar skyspace easement". It's now a right to those rays of the sun being granted and protected. You don't

have that anywhere else. I don't know why it was worded that way but I assume for legal reasons to cover all bases and run the gambit.

§360-218(I): "The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists." Where and how is this guaranteed? What about enforcement? Which way are those panels facing – south-east or south-west? Marc Kenward, Senior Associate, said they would be facing southwest. In the submitted documents of the application there is a glare study that indicated no adverse affects to neighbors.

§360-219(B)(6): "The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code." It also says the special permit in this case will not grant them solar skyspace rights.

§360-219(C): A site plan drawn in sufficient detail as follows: "Proposed fencing and/or screening for said project." I see the fencing but I don't see the screening. Kenwood said Borrego, at the request of the Town, had a landscape plan drawn up for screening.

§360-219(D): "For all utility scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommission plan shall identity..." Do you know the decommissioning costs at present and projected 25 years down the road? Broderick said he would provide this plan.

§360-220(D): "The maximum height of a utility-scale solar energy system shall not exceed 20 feet when oriented at maximum tilt." That is too high.

§360-220(P): "A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening on the site may be required along any property line that abuts an existing residence." That is my biggest request that those controls are in place and not minimized in any way. I don't want to have to look at the panels.

Gormley said, from Borrego's perspective, the project is all green and good. When I go to their website, frequently asked question page, why is solar being developed on land in rural areas? Building conventional power plants to meet our growing energy needs is hurting our environment and our health. Last I knew, we already have the 4<sup>th</sup> largest hydro-electric power plant in the United States. We are not hurting for the generation of green power here. As far as I'm concerned that doesn't apply. We are not hurting for green energy here.

Gormley said of most importance, people are concerned that this will negatively impact property values.

Lastly, Gormley said if the project goes forward, he wants to see the money kept in the community – the local union electrical workers are the most qualified to do this job.

Daniel Sanger, Ridge Road, owns a 90 acres farm. He owns six lots directly across from the solar project. He does not want to see this happen. He asked if there have been any studies regarding the values of the surrounding properties. What will happen to their property values? Sanger said he is a farmer. He hates to see good farmland go. Sanger said he was approached about putting a solar farm on his property. His concern was the contamination of the land. I just don't want it. I'm against it.

Terry Sanger, Ridge Road, said she and her husband own property from Ridge Road to Swann. They were approached by a company that was going to pay more than Borrego Solar. At first she said it sounded great but then her conscience kicked in. I love my land. This is not what we envisioned when we moved to Lewiston. This is a wonderful community to live in. I don't want it devaluing my property. I don't want it. It's industrial. It is not a definition of a farm. It's is not there for agriculture purposes. Glass and metal is not agriculture. It's going to be a detriment to my family and my well being.

Rosemary Warren, Griffin Street, asked for a performance bond to protect the roads. I don't want these heavy trucks to ruin our roads. I have a third party vested interest. I don't want to pay more for roads.

Walter Chew, Swann Road, just purchased a house that has been in his family for years. He is trying to restore it. He, like his neighbors, is against the project. I don't want this in my backyard. This is farmland. This community is coming out for the love of the land. That is why I'm here to support my neighbors. What if this leaks radiation? It becomes another Brownfield. Let's put them in the Brownfield in Niagara Falls? It is all industrial slab. Why in a rural area?

Cindy Sanoian asked who would take care of the landscaping. Who is responsible for that and how are you going to insure that it is being taken care of. This project is not in my backyard. It is in my front yard. Sanoian said it is her understanding that there is another solar farm going up in the area. She asked where that is. Broderick said it would be above the Escarpment. No application has been submitted yet.

Steve Lyle, Lower River Road, said the meeting is being filmed. When and where would people be able to watch it? Geiben said it is yet to be determined. It is coming out of the Lockport Cable TV. There is an issue with the Town's software. We're hoping to have this resolved and broadcasted on LCTV. Times will be posted on the front sign and the Town's website.

Marc Kenward, Engineer, assisting Borrego Solar to develop site plans for approval. Since the last meeting, they have been asked to consider landscape screening of the solar field from the road and the one side neighbor. We have a landscaping plan that was submitted to the Town. As far as maintenance, once it is built, it would be mowed twice a year. Any landscaping needs to the plantings would be addressed during the twice a year mowing.

The current proposed panels are nine-ft high. The fence surrounding the site would be a seven-ft. chained linked fence. It will not be topped with barbed wire. There will be no lighting on the site with the exception of one security light that is motion activated.

Lindsey McEntire said the one item she wanted to address is the fact they are using Town roads to get to the site. They will enter into a PILOT (payment in-lieu of taxes) Program with the Town. Borrego will be making payments to the Town throughout the course of the agreement to access the facilities.

McEntire said Borrego has developed about 30 solar farms in New York State. Across the Country they have done hundreds. They have not decommissioned a farm to date.

Geiben asked what kind of trees would be planted. Kenward replied, Blackhill Spruce, Baby Blue Spruce and White Pine. They will be interspersed with Gray Dogwood shrubbery and Winter Berry Holly shrubbery to create a natural vegetative screening to screen the fence line all season long.

Geiben said when the Board became aware of what was going on in Wheatfield; we felt we needed to move ahead with a Solar Law. When a company sent out postcards to residents, we knew we had to move ahead with a Solar Law. If we had nothing on the books, that allows the developer a lot more latitude than what they may or may not want to do. We had to move ahead. We held a public hearing, and did lots of re-writing to be able to come up with an adequate Solar Law. As far as preference, some members of this Board would prefer it to be in a light industrial area, but when NYS pushed the solar concept on us, we had to do something. This is the law we came up with. It is allowed in rural residential areas, as per NYS guidelines.

Jacoby asked what would happen if Borrego sold the company to another firm. Parisi said the new company would be bound by everything the current company is bound by. The successor company would still have those legal obligations.

**Geiben MOVED to close the public hearing. Seconded by Bax and carried 5-0.** Time: 7:10 PM

*WORK SESSION:*

*AGENDA:*

Additions: Broderick: Three issues for Executive Session (Contract Negotiations for lease of Town Property, Personnel Issue and Potential Litigation).

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

*NIMAC PRESENTATION:*

Fred Caso, spoke before the Town Board, as a volunteer with the Niagara Military Affairs Council. NIMAC, he said, is a group of concerned community individuals and retired military personnel. Their purpose is to be an advocate and communicator between the community and the air base. He is here tonight to ask the Town to join eight other municipalities in continuing its financial assistance for NIMAC. They receive about \$60,000 from local municipalities out of a budget of \$200,000. We very much appreciate the support.

Their mission is to be pro-active to keeping the base open. There is an \$88,000,000 payroll at the base, with an economic impact of \$200,000,000. Our work now is looking 4-5 years into the future. Thru the work of our elected official on the State and Federal level, we received hundreds of millions of dollars in new construction at the base. Next time a BRAC base closing is called we will be ready.

Last weekm NIMAC received its final audit from Brown & Company for Fiscal Year ending March 31, 2018. A copy has been provided to the Town Board. For the fifth year, we received a clean audit. Our books are open for review. We are looking for your support for Fiscal 2019.

*ABSTRACT:*

**Bax MOVED to approve the Regular Abstract of Claims Numbered 2651 to 2781 and recommended payment in the amount of \$113,778.13, plus a post audit of \$7,012.63. Seconded by Geiben and carried 5-0.**

*MINUTES:*

**Bax MOVED to approve the PH/RTBM of 8/27/18. Seconded by Morreale and carried 5-0.**

Swann Road Solar Farm Project: Tabled.

Geiben asked about the time frame for the project, Parisi said with respect to the Special Use Permit, under the Town Code, you have 62 days to take action after the public hearing is closed. They are also here for Site Plan approval. Under the Site Plan, the Town Board cannot take action until SEQR is done. There is one issue that hasn't been taken care of under SEQR and that is in regards to a Notice of Intent. We have 62 days from today to decide on the Special Use Permit. There is a secondary approval which is the Site Plan which is 62 days after the public hearing closes; but that time does not begin to run until SEQR is done. Essentially, the applicant could get approved for the Special Use Permit but would not be able to move forward with the project unless they get Site Plan approval, as well.

*DEPARTMENT HEAD CONCERNS:*

Police: Chief Previte said they made it thru Peach Festival weekend without much incident. Only one arrest was made. The turnout for the Budweiser Clydesdales was a larger event than the Parade. They received a lot of compliments on how well everything was handled.

In another matter, Previte said they were successful in finding a replacement Police K-9 dog. They are in the process of finalizing the payment. Homeland Security will reimburse the Town.

Water: Acting Forman Zahno asked to hire a water laborer. He asked permission to post the job. There is a pending retirement in the Water Department; Zahno wants to be pro-active in hiring a new laborer that has mechanic skills to work on heavy equipment, cars, inspections, etc. Next year, there will be a water line project starting. We are going to be busy, he said. There will a lot of unexpected over-time.

**Jacoby MOVED to post the laborer's position in the Water Department. Seconded by Bax and carried 5-0.**

Highway: Trane said he has excess fill that he would like to get rid of. They are stock-piling way too much. There is fill from the last four years that needs to be tested before giving it out. It has no value. He would like to offer it to contractors who would haul it out.

**Bax MOVED to declare the fill at the Highway Department as excess material. Seconded by Morreale and carried 5-0.**

Finance: The Finance Director asked for four budget revisions.

- a) A revision in the Sewer budget to cover the cost of anticipated Gas & Electric expenses through the remainder of the year. They are using funding from their equipment budget to cover these costs.

**Bax MOVED to transfer \$20,000 from SS1-8130-0200-0000 (Treatment & Disposal-Equipment) to SS1-8130-0400-3500 (Treatment & Disposal-Gas & Electric). Seconded by Jacoby and carried 5-0.**

- b) A revision to the Highway budget to cover the cost of other personnel that assist the Highway Department for various jobs (snow removal, etc). They are using funding from Snow Removal personnel to cover these expenses.

**Geiben MOVED to transfer \$10,000 from DB0-5142-0100-0000 (Snow Removal Pers Svc) to DB0-5142-0100-0100 (Out of Dept/Pers Svc). Seconded by Bax and carried 5-0.**

- c) A revision in the Dog Control budget to cover the cost of other personnel assisting in the Dog Control department. The current DCO position is vacant.

**Bax MOVED to transfer \$500.00 from A00-3510-0100-0000 (Dog Control Officer) to A00-3510-0100-0100 (Out of Dept/Pers Svc). Seconded by Morreale and carried 5-0.**

- d) A revision to the Parks budget to cover the cost of anticipated Gasoline/Diesel Fuel expenses thru the remainder of the year.

**Geiben MOVED to transfer \$1,200 from B00-7110-0100-0000 (Parks Per Svc) to B00-7110-0400-3510 (Parks-Gasoline/Diesel Fuel). Seconded by Jacoby and carried 5-0.**

Lastly, Agnello presented a tentative 2019 budget meeting schedule. Broderick asked Board members to get in touch with Agnello with any scheduling conflicts by Wednesday. They will set the times at the next meeting.

*OLD BUSINESS:*

- a) Signage for wheelchair dependent/disabled persons, Scovell Drive: Trane said one sign has already been posted. Other signs will be mounted in different areas.
- b) Drainage Request, 2089 Adams Circle: Broderick said they are still looking into the issue as to whether it is rear yard drainage or a Town drainage issue.

KNOXBOX 3200: Broderick said the Town will purchase a surface mounted KNOXBOX for the front of Town Hall at a cost not to exceed \$334. It will hold a key to the building in the event of an emergency. One will eventually be placed at all Town Buildings.

New Build Connection and Inspection Fees: Parisi said this is part of the new fees into effect. Ritter provided a WPCC Fee schedule for new build connection and inspection fees.

TOWN OF LEWISTON WPCC  
New Build Connection and Inspection Fees

<u>Number of Units</u>	<u>Description</u>	<u>Fee</u>
1	Single Family Home	\$1,000.00
2	Duplex	\$1,300.00
3	Apartments	\$1,600.00
4	Apartments	\$1,900.00
5	Apartments	\$2,200.00
6	Apartments	\$2,500.00
7	Apartments	\$2,800.00
8	Apartments	\$3,100.00
9	Apartments	\$3,400.00
10	Apartments	\$3,700.00
11	Apartments	\$4,000.00
12	Apartments	\$4,300.00
13	Apartments	\$4,600.00
14	Apartments	\$4,900.00
15	Apartments	\$5,200.00
16	Apartments	\$5,500.00

ADDITIONAL FEES  
Infrastructure Fees per DEC Design Standards

<u>Type of Facility</u>	<u>Number of Bedrooms</u>	<u>Fee</u>
Home	1	\$300.00
Home	2	\$600.00
Home	3	\$800.00
Home	4	\$1,000.00
Home	5	\$1,200.00
Hotel	10	\$2,200.00

**Bax MOVED to approve the fees, as submitted. Seconded by Morreale and carried 5-0.**

Sewer Bill Exemptions, Sara Court: The Board received a request from John Frandina, Sara Court for a sewer credit. They had to re-fill their pool after having the liner repaired. This is consistent with Town Policy, as per Jeff Ritter.

**Geiben MOVED to approve a sewer credit of \$64.95 to John Frandina. Seconded by Bax and carried 5-0.**

Upper Mt. Fire Company Roster Deletion: The following person is no longer a member of the UMFC. We request the Town remove Kianna Norman from the fire company's roster.

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

Water Department Job Posting: Taken care of earlier in the meeting.

Car Charging Station Bids: In April, Morreale said the Town was awarded a grant for a Car Charging Station to be located at the east side of the Town Hall parking lot. Out of six companies he reached out to, Morreale said he obtained two bids. One from Johnstone Supply in the amount \$9,263.25 and another from PlugIn Stations Online in the amount of \$9,566.00. Morreale recommended the latter because it includes installation.

Parisi said State law allows a municipality to contract by best value, which is what the Town would be doing in this situation because it is not taking the lowest bid. The difference between the two bids is a nominal amount. Taking the higher bid is a better value for the Town because it includes concrete and installation.

**Jacoby MOVED to accept the bid from PlugIn Stations Online in the amount of \$9,566.00. Seconded by Geiben and carried 5-0.**

PRIVILEGE OF FLOOR:

Rosemary Warren, Griffin St, said those neighbors affected by the Solar Farm should receive free electricity. I think they should sweeten the pot here. How is the drainage going to be as a result of this project? It seems every meeting you have a drainage issue. Has the engineer looked into this? Lannon said his staff would review the drainage as part of the Site Plan.

Paulette Glasgow, The Circle, asked again that Attorney Parisi speak directly into the microphone. As she was unable to hear the Board, she asked they invest in wireless speakers. The Clerk said seven speakers were ordered.

Glasgow then asked the Highway Supt. if he is going out to bid to have the fill tested. Trane said he did not have an answer to this.

Glasgow said she had an issue to a Solar Farm being proposed above the Escarpment. There is an issue building upon natural springs. That is why people's foundations are cracking. Geiben made a perfect example as to where they should put these Solar Farms – At the Lake Ontario Ordnance Works site. I wish you would consider that. It would solve so many problems.

Geiben said anytime the Town has anything to do with them we mention it, but by the time that's declared appropriate to do, I'll be long gone.

Glasgow asked if she heard correctly that there would be an agreement as to the road. Broderick said it would be part of the PILOT program. Glasgow asked how much in taxes this would be. Parisi said this is under negotiation.

Parisi proceeded to explain the PILOT program. When NYS passed the Solar Law, they made Solar Farms exempt from taxation. They allowed municipalities to take steps to put a PILOT agreement in place where it can tax the property and get a payment in-lieu of the taxes that you would otherwise be charging it. Those are the steps the Town has taken. You're getting money for that infrastructure. You're making up the taxes thru the pilot agreement.

**Bax MOVED to enter into Executive Session. Seconded by Morreale and carried 5-0. Time:** 8:10 PM.



Present: Broderick, Bax, Geiben, Jacoby, Morreale, Parisi, Agnello, Blazick, Dashineau

Issues discussed:

- 1) Consultation with Attorney re potential litigation involving Parks Dept. contract.
- 2) Contract Negotiations – Lease Town Property (Parisi recused himself).
- 3) Consultation with Attorney re personnel issue with front office staff.
- 4) Consultation with Attorney re potential litigation involving Town Contract

**Bax MOVED to exit Executive Session. Seconded by Morreale and carried 5-0.**

No action taken.

**Morreale MOVED to adjourn PH/Work Session. Seconded by Jacoby and carried 5-0.**

Transcribed and  
Respectfully submitted by

Carole N. Schroeder  
Deputy Town Clerk