

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, B. Geiben & R. Morreale; Dep. Sup. W. Conrad; Chief Previte; Bldg. Insp. T. Masters; Finance Director/Budget Officer M. Blazick; Eng. B. Lannon; Attorneys J. Catalano & R. Parisi; WPCC Chief Operator J. Ritter; 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

The Supervisor called the Public Hearings to order, followed by the Pledge of Allegiance and a moment of silent reflection, in remembrance of 9/11 and asked to keep everyone in the South (Texas and Florida) in their prayers.

**Public Hearing #1 re: Upper Mt Road PUD Concept Plan**

The Clerk read the public notice for the record:

**LEGAL NOTICE IS HEREBY GIVEN** that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lewiston, the said Town Board will hold a public hearing at the Town Hall, 1375 Ridge Road, Town of Lewiston, on the 11<sup>th</sup> day of September, 2017 at 5:30 P.M., Eastern Standard Time, to hear all interested parties and citizens regarding the adoption of an Amendment of a Plan Urban Development Concept Plan, Metzger Civil Engineering, PLLC, representing the Rubino Brothers, request an amendment to the current Planned Unit Development (PUD) Concept Plan for property located on Upper Mountain Road, SBL# 102.00-1-14.1. The property is presently owned by Donald Smith. Said hearing may be adjourned from time to time as necessary.

Further information, including access to a copy of said Amended Planned Urban Development Concept Plan, may be obtained at the Town Clerk's office, Ridge Road, Lewiston, New York.

Before asking for public comments, the Supervisor said there would be no action taken on the concept plan tonight. He wants to hear what everyone has to say. The Clerk was asked to type the minutes of the public hearing and forward to the Town Board, Attorneys and Town Engineer.

The Supervisor asked for public comment.

Margy DiMino, Bronson Drive, read the statement:

*1. The Developers claim that the new project will result in reduced density. Is this true?*

No! The original plan approved in 1985 permitted more dwelling units but all of the units were spread over the entire 80 acre parcel. Since then, nearly half of the yet undeveloped land has been declared a federally protected wetland. Because there is less land to develop, the density of single family homes on the developable land has been increased.

*2. Are the developers really providing useable greenspace for the benefit of residents?*

No! They claim the new proposal provides that 40% of the project area is greenspace being made available for the benefit of the residents but that is not true. In exchange for smaller building lots greenspace is required in planned unit developments for the benefit of local residents. The original plan specifically provided for a public park, tennis courts, putting greens and open areas along fish creek, all accessible to residents of the community. The current proposal deletes all of these features and provides only a few pockets of "greenspace" tucked behind building lots not accessible to the residents. The majority of the proposed "greenspace" is actually the federally protected wetlands and provides no recreational opportunities for residents. Furthermore, at the Town Board's last meeting, it was suggested by the recreation director that the Town not renew its lease with the Niagara Bible Church which provides the only public park for Bronson Drive and other area residents. It is an insult to our residents that the Town is permitting the developer to build homes over what was to be accessible parkland and outdoor recreation areas while at the same time taking away what little we have at the church.

*3. The developer claims there will be less of a traffic impact than as in the original plan. Is this true?*

No! The original plan called for one access road from Bronson Drive and two access roads from Upper Mountain Road. Presumably, the original design was to minimize traffic entering from Bronson Drive. However, at the June 19, 2017 Environmental Commission Meeting, the developer stated there would now be four means of access to lessen traffic impacts, two located

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on Bronson Drive to be built in phase one of the project and two on Upper Mountain Road to be built later. More smoke and mirrors! Because homes can no longer be developed in the wetland areas that are directly adjacent to Upper Mountain Road it is no longer economically feasible or practical to provide this access. It appears the developer knows this in spite of promising the Environmental Commission that the Upper Mountain access roads would be built. Since June 19, the developer has already admitted that there can only be one road off Upper Mountain because they can't build through the wetlands. Ask yourself this, will there ever be an access road off Upper Mountain? *Not likely and here is why.* At the same Environmental Commission meeting, the developer made two telling statements; first, that there would be no alterations to Fish Creek because of the expense and permitting "nightmare" and second, that the developer cannot "restrict the water in the flood zone". Why is this important? Because both Fish Creek and a flood zone (which is not clearly shown on the proposed plan) are directly in the path of the remaining proposed access road from Upper Mountain. Additionally, this very expensive and nightmarish road construction would only service 23 of the proposed 107 residences with the majority of the development on the north end of the property which is adjacent to Bronson Drive. *This leads to the logical conclusion that it is not likely any road will ever be built off Upper Mountain and that Bronson Drive will bear the entire traffic burden for this development.*

Since the Town Planning Board, Environmental Commission and Town Board can't see the problems that we do and aren't asking the right questions and the hard questions, it is up to us to do it!

Is this project economically feasible?

Where did the parkland and recreation facilities go?

Why isn't the Board requiring the developer to develop the Upper Mountain Road access road right away?

Why is the Board not concerned that all traffic will now affect Bronson Drive when it earlier realized Upper Mountain Road was more appropriate?

Why are they buying the developer's claim of lower density?

Why is the Town buying the developer's promise to build an access road when at the same time admitting it would be too expensive and cumbersome?

The Town knows the land is subject to flooding and wetland restrictions but they are blindly accepting the developers promise that there will be no drainage problems, really? Did they forget about Riverwalk?

*How many homes does the developer really think can be sold? It's been 32 years with no buyer. What about Sattleberg Farms (Pletcher Road), Riverwalk and French Landing?*

How many "patio homes" does one small community need? Shouldn't we let them be built where they are already approved before allowing more?

*Good planning means smart planning. This proposal isn't smart. It's simply the cheapest way the developer can get the job done. Why doesn't the Board think the residents' quality of life interests are more important than the developer's financial interests?*

Why hasn't the Board considered terminating the original planned unit development? This has been an option available to the Board for over twenty years.

People have the right to develop their land but the Town has the obligation to make sure it's done right!!!

Joe DiMino, Bronson Drive, thanked the Board for allowing residents to speak on this controversial issue. We care about the quality of life in our neighborhood and the future of our Town. DiMino extended a thank-you to the Supervisor for coming out to his home to hear some of the specific concerns he has. The more I hear about this proposed project, it's starting to look suspicious. Let's begin with the Planning Board being all set and ready to rubberstamp plans in July, which would have allowed 30-40 homes to be built on what is now deemed wetlands. The first meeting I attended, this room was filled. It was unexpected that that would happen. At the next meeting, dozens of building lots and an entrance off Upper Mountain was simply wiped off the plans. And yet, we as a Town were ready and willing to get things started. In fact, at the first meeting I attended, one of the developers said that they were shooting for the first home to be built next spring. This is a large undertaking for most any town. Why the big hurry? Many residents expressed concerns with the obvious increased traffic flow; citing safety issues for automobiles, pedestrians and cyclists. Need I remind you we do not have the luxury of sidewalks along Bronson? Almost daily, it is not uncommon to see someone walking a dog, jogging or out for a walk. The Planning Board did insist on a traffic study. I commend them for

that; however, I hope it is not simply a study of traffic volume. I saw them run their lines off Upper Mountain one day. If that's the extent of the so-called study, it's beginning to look like a measure which is being taken to quiet the residents.

I live on Bronson. I have yet to see any people or equipment performing any study. One of the potential roads could exit off on to Bronson where we all know traffic can get moving at times. Furthermore, that proposed road on Bronson will be heading directly at an existing home. I mentioned this to a few Board members, to which no grave concern was ever expressed. You can't even put up a guardrail as a safety measure because that would prevent that resident from pulling into their driveway. I realize that development is sometimes necessary at times in some communities, but in this case it is neither. There is not a genuine need for this project. We are your eyes and your ears in this community. We stand here and you hear our voice.

Patricia Nashwinter, The Circle Drive, said if the Rubino Brothers and Don Smith are serious about this project, they should first build that road off of Upper Mountain, instead of coming out on Bronson and connecting to Saddlewood. They are trying to get the Town Board and Town Planning Board to buy into promises that cannot be kept.

Tom Castle, Hackney Lane, had hoped that the Rubino Brothers had made their presentation first. Castle is President of the Saddlewood Homeowners Association. The HOA has met several times with the Rubino Brothers, who have agreed to some of their contingencies. One of the issues was the survey that was done in the back field of Carriage Lane. The property line cuts thru one of the decks of the condo unit. The Rubino Brothers agreed to deed over, upon site plan approval, an additional 10-ft beyond the current line. This will bring the property more in-line. Right now, the homeowner cannot sell her home because she has no deed to part of her deck. There are several other items the Rubino Brothers have agreed to do upon site plan approval. Outside of what they are doing, we have a prolonged drainage issue. It is a big deterioration of drains. Under this current plan, it calls for one more Condo building to be built. I would like to prohibit them from building that until be corrects our drains. A couple drains were fixed a couple years ago, under Town Board supervision. It wasn't fixed property and it has deteriorated. I want that to be an issue before another unit is built.

John Jacoby, Lower River Road, thanked the Board for not taking action tonight. I was going to ask you to not approve this concept plan tonight, out rightly or conditionally, because this is the only leverage these people have. You should listen to all the residents' concerns, prioritize them and present them to the developers, for resolution, then make approval of the project contingent on this resolution.

Bill Wilson, Bronson Drive, said he has not heard anything about the water pressure in the area which has been a habitual problem thru the years. As recent as last weekend, we couldn't get a good flow out of the water hose. Our concern is the impact of additional residents taking water away that isn't there. We have a serious fresh water problem. Drainage is still an issue. I still have flooding in my yard during a moderate rain. It pools in my backyard. I was told there was a drain that was put in behind our lot. Either it is not working or it is insufficient to handle the runoff before it hits my yard. Some of my neighbors have the same problem. I want to make sure you are aware there are drainage problems and freshwater problems. Anything that adds to those problems at this point will be detrimental to the area.

Paul Swisher, Carriage Lane, spoke at a previous meeting, listened to residents tonight and would like to follow up on a couple of things. Regarding any promises or guarantees that might be made to the residents of Saddlewood Development, I urge you to make that contingent upon something that is legally binding, as opposed to words in the air. We have seen, in other communities that things that are promised don't come to pass. I understand the developer and seller have legal rights, but there should be some moral and ethical considerations, especially for the seller who has made hundreds of thousands of dollars, if not millions, on building beautiful townhomes. My wife and I have been here for one year. We came to Lewiston because we view it as a "slice of Heaven". It is a beautiful place. It has its own character which is very unique. You have to ask yourselves, what do you want Lewiston to become? For us, it's already here. I just ask that the majority of your Board is interested in trying to do the right thing and to make things reasonable for the residents in Lewiston.

Elizabeth Doherty owns two properties in the Saddlewood Development, one on Hackney Lane and another on Bridle Path. She does not know how development works, such as what kinds of approvals or ordinances are required and what kind of thinking is involved. What kind of planning and consideration goes into this? The Environmental Commission missed the point on the wetlands. It would seem to me the greenspace, residents' quality of life, drainage and water issues would need to be studied and considered before you even plan to propose a development.

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Most of us in Saddlewood did not hear anything about this until three days before the first Planning Board meeting. It doesn't seem like it was studied at all.

Nancy Correa, Riverwalk Drive, said in her previous experience as Director of Community Development for the City of Niagara Falls, it seems that development comes to be aired and looked at in a negative fashion. There is a system, called a Comprehensive Plan, which has a housing element. Why not look at updating it to see if we really need the amount of housing and development that comes before you. It is a bit outdated. People here are concerned. You have heard me speak about whether or not we need all these developments coming to fruition. Put a moratorium on new development for the time being. Get a group of residents throughout the Town to give input as to what the housing element should look like and whether or not we need the development that comes before you so frequently.

This ended the public comment period.

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

**Public Hearing #2 re: Historic Preservation Law**

6:00 p.m.

The Attorney said this was a continuation of the hearing of June 26, 2017.

The Supervisor asked for public comment. There was none.

**Geiben MOVED to close the Public Hearing. Seconded by Ceretto and carried 5-0.** Time:  
6:20 p.m.

**Public Hearing #3 re: LED/EMD Sign Law**

6:10 p.m.

This was a continuation of the hearing of June 26, 2017. The Supervisor asked for public comment. There was none.

**Geiben MOVED to close the Public Hearing. Seconded by Ceretto and carried 5-0.** Time:  
6:25 p.m.

*WORK SESSION:*

Additions: Ceretto: Excess Equipment/Parks; Geiben: Local Law (2) Introductions.

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

*UPPER MOUNTAIN ROAD PUD CONCEPT PLAN:*

Michael Metzger, Metzger Civil Engineering, Sheridan Dr., represented his clients, John and Joe Rubino, on an amendment of a Plan Urban Development Concept Plan for property on Upper Mountain Road.

Metzger said the project before the Board is a project that initially came before a prior Board years ago and approved in the 1980's. The concept plan has been amended and must go thru an approval phase of all departments and agencies before construction can begin. They are at the very beginning of the whole process. They are working on the layout. There was a plan previously approved. That is the plan that has been building out. They are looking forward on working on the next phase. In doing so, they are proposing changes for the betterment of the Town.

The plan put forth would be in compliance with the latest codes. It is designed to help address a couple of existing issues that exist now. The existing development consists mainly of the multi-family component of the original PUD. Right now, there is only one access, off Bronson Drive for all of the homes in the initial construction. One thing the new concept plan will do is provide multiple access points. With the first phase there would be a secondary access point for emergency vehicles.

The original PUD was approved for 246 units. Currently there have been 70 units built. We're looking for 107 units for a total of 177 units, compared to the 246 units that were part of the originally plan. Another benefit of this project is that it will alleviate some of the drainage concerns they have been hearing about. One of the biggest concerns comes from people that live in the townhome development. All the water within this portion of the development will be collected and transferred into a storm water management pond and discharged into the adjacent creek, where it will be properly detained and in compliance with Town and the most stringent State Regulations that are in place today. There will be some benefits derived as a result of this development for the existing neighborhood because of problems that are there now. Tens of acres of water will be put into the system and carried to the storm water pond.

Metzger said the plan calls for 91 patio home lots on the north end and another phase that will head off to the connection point to Upper Mountain Road. The last phase will complete the multi-family portion of the project with 16 townhomes for a total of 107 units.

With this plan, there would be an increase in the amount of open space. The provisions of the Zoning Ordinance require a minimum of 25% open space. The plan, as presented, will have 46% open space. Almost half of the land area will be open space.

Metzger said they have been involved with the planning process. They have taken comments from the public and other review agencies and have amended the plan as they have gone along. They have had multiple meetings with the Planning Board. His clients have had some meetings with the neighbors. They have made minor changes to the plan to alleviate some of the concerns that have been raised.

One issue that has come up thru this planning process is fire access. The plan was amended to alleviate some concerns with the most recent fire code. The revised plan will address some emergency access issues that exist today.

As part of the process, they made some adjustments to the lot configurations to provide more room. What they are addressing with the Planning Board is a higher density than what the original plan is showing. They will not impact any of the State Wetlands and they have decreased the amount of Federal Wetland impacts from the project. A prior plan had .4 acres of Federal Wetland impact. This has been pared down to 0.12 acres, most of what is need for crossings. For a project of this size, 80 acres, it would only be impacting 0.12 acres of wetlands. That is quite an achievement.

Metzger said there have been concerns about traffic. They hired a well-respected traffic engineering firm to analyze the traffic situation on how this amended plan would impact the existing roads. They have concluded there would not be any adverse impact. Will there be more cars and traffic in the immediate area? Absolutely, but, based on the standards that exist today for what is a reasonable level of service, this project would not reduce the level of service for the roads in the immediate area.

They have contacted the State Office of Parks & Historic Preservation. They concluded there would be no impact to the Archeological resources of this project.

Metzger said the Environmental Commission looked at the project to render a recommendation to the Town Board who ultimately has responsibility for SEQR. They have recommended the Town Board issue a negative declaration (no significant impact) on the environmental considerations. On July 17, the N. C. Planning Board unanimously approved the project. On August 17, the Town Planning Board unanimously recommended that this plan be approved.

Metzger said there is a plan that was already approved. They are looking to amend it. He feels the amendment to the plain is a positive.

The Supervisor asked for comments from the Board.

Geiben: All the green space (open space) – will that be owned and controlled by the Homeowner's Association?

Metzger: Yes. It has no benefit or liability to the general public. It is closed property.

Morreale: I'm the liaison for the Planning Board. Rubino said the area is thirsty for more homes. I would like to see what type of study was done. What I don't want is another development started with 15 homes built and then abandoned and we end up with it.

Metzger: We're proposing to build this out in multiple phases. Rubino's have been doing this type of development for many years now. They have a proven track record. Any market study they may have done is proprietary and not available for public viewing. It is specific to their business.

Morreale: Is this going to require the total road be put in?

Conrad: As we have said thru these discussions, each phase has to have its own road so that it stands independently from a fire access perspective.

Metzger: The phases, as they are built out, stand alone. No one anticipates that a project is going to fail when they get into it; especially someone with a track record as our clients. The storm water management facility will be put in as part of the first phase. That will fully cover everything that is needed for the first phase, second phase and last phase.

Geiben: I was disappointed that none of the open space is open to the public, but I was pleased that it's not the Town's responsibility, as we have a dilemma ongoing with Ash Trees in the Green space that we have to deal with. I also noticed there were some 66-ft lots on curves. We have a history of having problems with 66-ft lots on curves because of the side lot setbacks when you try and put a rectangular house on a non-rectangular lot. Maybe you should increase the width of some of those lots.

Conrad: One of the things we discussed on the Planning Board, specific to the 66-ft lots, is that they require no variances. There have been other restrictions, i.e., building sheds. We can make that a part of the Planning Board minutes as part of the requirements.

Broderick: What I would like to see, and I have talked to several people on the project, is screening between the DiMino and Granto home. Those are the two lots that would be most affected by that access road on to Bronson Drive. That would be my one concern.

Bax asked about the drainage to the detention pond. How is it going to drain? What are the dimensions of the piping? Metzger said it's too early to tell. It will be maintained, owned and insured by the homeowner's association.

Broderick thanked Mr. Metzger for coming. Again, Broderick said they would take no action of the PUD or the SEQR.

At this time, the Board took a 10 minute break.

*HISTORIC PRESERVATION LAW:*

**Morreale MOVED to adopt Local Law #3-2017, Modifications to the Historic Preservation Law, as presented. Seconded by Bax and carried 5-0.**

**§ 40-5. Creation, membership and meetings of Commission.**

**A.** There shall be created by the Town Board of the Town of Lewiston a Historic Preservation Commission, which shall consist of seven members to be appointed by the Town Board. The Town Historian shall also be a member in an ex officio capacity. [Amended 5-12-1980 by L.L. No. 3-1980]

**B.** Said members shall preferably be residents of the Town of Lewiston and shall include, if available, two architects, one of whom shall be a landscape architect, and one municipal planner. Other appointees shall be qualified by reason of training, experience or demonstrated interest in law, local law, local business or

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the history or historical preservation of Lewiston. A vacancy occurring in the membership for any cause shall be filled for the unexpired portion of the term by the Town Board.

C. The term of office shall be seven years, provided that, of those seven members initially appointed by the Town Board, one shall be for a term of seven years, one for six years, one for five years, one for four years, one for three years, one for two years and one for one year, so that all members will serve staggered terms. **[Amended 5-12-1980 by L.L. No. 3-1980]**

D. The Commission shall elect one member as Chairman and one member as Vice Chairman and shall submit to the Town Board, in the last week of December, an annual report encapsulating its activities of the past year and predictions for the ensuing year. Such report shall also include recommendations that the Commission deems necessary to carry out the principles of this chapter and to enhance the historic and aesthetic qualities of the Town.

E. Members of the Commission shall serve without compensation but shall be reimbursed by the Town for expenses necessarily incurred in the performance of their duties, with proper approval of the Town Board.

F. Meetings of the Commission shall be held *regularly* at such times as the Commission may determine or at the call of the Chairman or at the call of at least two Commission members and must be held within 30 days of receipt of a complete application for a certificate of appropriateness by the Town Building Inspector. All Commission meetings shall be open to the public and notice of such shall be given in the official Town newspaper 10 days prior to the meeting.

G. The Commission shall keep regular minutes of its proceedings and show the vote of each member upon any question. It shall also keep records of its examinations and official actions.

**§ 40-7. Criteria and procedure for designation of buildings, structures, sites and districts.**

A. Criteria for evaluation of historical significance shall be based on the following criteria:

1. Date of Erection

2. Construction Style

i. The style of the building and the scarcity of the same, the quality of design and its scale, fenestration, trim, manner and material of construction

3. Alteration of the Building

i. The alteration and desecration of original design and present condition and appearance, acknowledging the styles of architecture recognized by those organizations catalogued under "styles of architecture" found in § 40-4.

4. Historical Significance

i. the importance to the Neighborhood, Town, State or Nation and identification with historic persons or historic events.

B. Evaluation of districts shall be made using the same criteria and review as for individual buildings or structures, but, in addition, consideration shall be given to the collective merits and interrelationship of all buildings, structures and sites within a district's boundaries. A public hearing, with notice given in the official newspaper of the Town 10 days prior to the meeting, shall be attended and conducted by the Town Board and shall be held before the designation of any historic district in the Town.

C. Designation of a building, structure, site or district as historically significant shall be made by the Commission only after the Commission or its representatives have met with the owner of such building, structure, site or district or his representative. If, after just and proper notice is given, said owner or representative fails to meet with the Commission or its representative, designation may proceed. Notice of such impending meeting shall be personally served upon said owner if he is a resident of the Town or, if he is not a resident of the Town, shall be sent by certified mail to his last known address, as recited on the latest tax rolls of the Town. In either event, said notice shall be given at least 10 days but not more than 20 days prior to the day of said meeting. The owner of the property at issue may request a public hearing which the Town Board, in its discretion, may grant if it determines such to be in the public interest.

**§ 40-8. Criteria and procedure for certificate of appropriateness.**

A. Applications for a building permit to alter or demolish a building, structure or site designated historically significant or to alter, demolish or initiate new construction in a designated historically significant district shall be submitted to the Town Building Inspector. Such application shall state that the property at issue is historically significant, but, in any event, the Building Inspector shall check each application against the latest inventory he has received from the Commission. Such application shall be sufficiently detailed to show that the proposed changes will be in harmony with the existing designated property and shall be accompanied by plans illustrating the designated property, the proposed changes and the relationship of such to adjacent property.

B. Upon the filing of such application, the Building Inspector shall immediately notify the Commission of such and forward the same to the Commission, together with the accompanying plans and other information, unless said application pertains solely to the interior of the designated building or structure or the same within a designated district.

C. The Commission shall meet within 30 days after receipt of the application by the Building Inspector, unless otherwise mutually agreed upon by the applicant and the Commission. In reviewing the application, the Commission may confer with the applicant or his representative. If the Commission approves the application, it shall issue a certificate of appropriateness which shall be attached to the building permit and immediately transmitted to the Building Inspector. The Commission shall also stamp all submitted plans. If the Commission disapproves an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefore to the applicant and Building Inspector. The Commission may advise what it considers proper if the application is denied, and the applicant, if he so desires, may modify his plans and resubmit his application after doing so.

D. In approving or denying an application, the Commission shall consider the historical and architectural importance of the property, the site in relation to its surroundings, the value to the community, the

condition *and integrity* of the property at the time of application, the severity of the change in exterior design and the degree of harmony and integration of the proposed changes with the original property.

E. The Commission shall review whether the denial of a certificate will cause economic hardship to the applicant and, if so, to what extent.

F. Failure of the Commission to approve or disapprove an application within 30 days after its reception by the Building Inspector or within that time period mutually agreed upon by the applicant and the Commission shall be deemed to constitute approval by the Commission, and the Building Inspector shall proceed to process the application notwithstanding the absence of a certificate of appropriateness.

G. The Commission has the right to not to review any application which is incomplete. Said review will not occur until such time as the application has been completed properly.

**§ 40-10. Exceptions and exemptions.**

A. Any owner of a designated building, structure or site or the same within a designated district who desires to maintain or repair the exterior of such building,

structure or site for the purpose of returning such to the original condition has the right to maintain or repair with the same materials and in the same fashion without a certificate of appropriateness.

B. The Commission shall have no control over interior changes in any building or structure unless evidence of such change is apparent on the exterior of such building or structure.

C. Upon approval of an application and subsequent issuance of a certificate of appropriateness, nothing contained herein shall prohibit the utilization of modern materials and construction methods.

D. Nothing contained herein shall be construed as to require the owner of any presently existing building or structure, if designated historically significant pursuant to this chapter, to make any change in the exterior design or appearance of such building.

**§ 40-11. Tax abatement.**

A. After a building, structure, site or district of such has been duly designated by the Commission as historically significant, the owner or owners of said building, structure, site or district of such shall be eligible for reimbursement for all or part of the general Town tax (*See New York State Real Property Tax Article 4, Title 2 §444-a*) as provided in a resolution of the Commission, subject to approval or disapproval by the Town Board.

B. The owner or owners of a building, structure, site or district of such shall be reimbursed for the proper and timely payment of only those taxes accruing after the date of the formal designation of said building, structure, site or district of such as historically significant.

***LED/EMD SIGN LAW:***

**Bax MOVED to adopt Local Law #4-2017, Lighting Emitting Display (LED)/Electronic Messaging Display (EMD Signs, as presented. Seconded by Morreale and carried 5-0.**

1. All signs containing electrical wiring shall be subject to the provisions of the National Electrical Code and an electrical permit issued by the Town of Lewiston. The electronic components used shall bear the label of a Nationally Recognized Testing Laboratory.

2. Electronic Message Display (EMD) Sign or Light Emitting Display (LED) Signs may be permitted, subject to an electrical permit issued by the Town of Lewiston, in the Light Industrial (I1), Industrial (I2), General Business (B) and Rural Business (RB) Districts. Electronic Message Display (EMD) and Light Emitting Display (LED) signs may also be permitted, subject to a Special Use Permit to be issued by the Town of Lewiston Planning Board, together with an electrical permit issued by the Town of Lewiston, for the following purposes, in any zoning district.

a. Churches and other places of worship.

b. Schools and other places of education.

c. Emergency services.

3. All applications for *EMD/LED* signs are subject to approval by the Code Enforcement Officer.

4. Message center signs may be included as a part of a permitted freestanding sign in any commercial district. Where window signs are allowed without permits, EMD or LED signs smaller than 2 square feet are allowed.

5. All *EMD/LED* signs shall employ only light of constant intensity.

6. *EMD/LED* signs shall not be located within 75 feet of any other such sign.

7. No *EMD/LED* shall be so placed as to permit its beams and illumination to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

8. The full number of illuminating elements of an *EMD/LED* shall be kept in working condition or shall be immediately repaired or replaced.

9. The illumination levels of the *EMD/LED* shall comply with the following:

a. *EMD/LED Illumination Measurement Criteria:* The luminance of an *EMD/LED* shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the *EMD/LED* off, and again with the *EMD/LED*, displaying a white image for a full color-capable *EMD/LED*, or a solid message for a singlecolor *EMD/LED*. All measurements shall be taken as close as practical to a perpendicular plane of the sign at the distance determined by the total square footage of the *EMD/LED* as set forth in the accompanying Sign Area of a Sign versus Measurement Distance table.

b. *EMD/LED Illumination Limits:* The difference between the off and solid message measurements using the *EMD/LED* Measurement Criteria shall not exceed 0.3 footcandles at night.



c. *Dimming Capabilities:* All permitted *EMD/ED* shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements.

d. In the event that an *EMD/LED* sign is not capable of adjusting its level of illumination, the property owner shall install an external dimming mechanism, and if that is not possible (hardship, technology etc), based upon proof that the owner shall submit to the Town of Lewiston Building Department, then the *EMD/LED* sign shall be considered to be grandfathered; but if any *EMD/LED* sign so grandfathered is replaced or updated, it shall conform to the standards set forth in this section.

10. The duration time of a message displayed on the *EMD/LED* shall be a minimum of 10 seconds. (Duration time is how long a message must remain fixed in place before it can transition to another message.)

11. The transition time of the *EMD/LED* signs should not last more than one second. (The transition time is how long it takes to go from one message to the next.)

12. Message displays will be instantaneous, without scrolling, fading-in, dropping-in or similar moving copy changes, and moving pictures and digital movies shall not be displayed.

13. Special effects or operational modes such as scroll, travel, spinning, actions or the use of similar transitions and frame effects that have text, graphics or images that appear to move or change in size, or be revealed sequentially rather than all at once, are prohibited.

14. Full animation, flashing or video is prohibited.

15. All *EMD/LED* shall have maximum allowable area of 32 square feet.

*ABSTRACT:*

**Morreale MOVED to approve the Regular Abstract of Claims Numbered 2484 to 2625 and recommended payment in the amount of \$196,870.03, plus a post audit of \$13,642.12. Seconded by Bax and carried 5-0.**

*MINUTES:*

**Bax MOVED to approve the minutes of 8/14/2017, Work Session and 8/28/2017, RTBM. Seconded by Geiben and carried 5-0.**

*DEPARTMENT HEAD CONCERNS:*

Court: The Supervisor read the following request from Justice Sheeran: Please accept this formal request to appoint Mary Gee as my Court Clerk, effective Tuesday, September 12, 2017. As you are aware, Felicia Kinney has submitted her resignation, effective September 15, 2017. Appointment of Mary Gee on September 12, 2017 will permit a smooth transition from Mrs. Kinney to Mrs. Gee. Mary has opted to begin her re-appointment to the position of Court Clerk at the hourly rate of \$16.68.

**Geiben MOVED the appointment of Mary Gee as Court Clerk at the hourly rate of \$16.68. Seconded by Morreale and carried 5-0.**

Police: At this time, Town Resident Bill Justyk, on behalf of himself, Allen Hastings, Chairman of the Lewiston Peach Festival, and Lewiston Kiwanians thanked the Lewiston Police, local fire departments, Undersheriff, doctors and nurses for saving the life of a man from Erie County attending the Festival. He thanked the residents for their support of the local fire companies in the area.

Chief Previte said he would introduce the three new hires for the Town to meet. They are in training until the end of October. Everything is going well with the School Resource Officer (SRO) at Niagara-Wheatfield. They are getting a lot of positive feedback.

Highway: Supt. Trane requested the millings at the Highway Dept. be declared surplus material. Atty. Parisi said he looked into the issue. The Town can declare the millings as surplus as long as they are in existence. For formality sake, Parisi asked that this be added to the agenda; then it can be acted on.

**Bax MOVED to amend the agenda to include declaring millings excess material. Seconded by Geiben and carried 5-0.**

**Bax MOVED to declare millings from the Highway Dept. as excess material to be sold at \$5/ton. Seconded by Geiben and carried 5-0.**

Trane said the two pavers borrowed from the County are down. He has reached out to three other Towns (Niagara, Porter & Wheatfield) to purchase their own paver. One is available in the area for \$120,000. Trane asked to transfer \$30,000 from his Snow Removal Contractual to Machinery Equipment for the Town's share of the purchase.

**Bax MOVED to transfer \$30,000 from DB0-5142-0400-0000 (Snow Removal Contractual) to DB0-5130-0200-0000 (Machinery Equipment), for the pending purchase of a paver. Seconded by Geiben and carried 5-0.**

Lastly, Trane asked to transfer \$75,000 from H-97 (Infrastructure) for a Salt Storage Shed. The Finance Director said this is on State Contract. **Geiben MOVED for approval. Seconded by Bax and carried 5-0.**

Finance: Blazick said she, and the Town Clerk, were tasked in looking into a telephone system for all Town Departments. All department heads were involved in this process. They worked with Ronco, specifically, because they have the State Contract. She passed this thru Atty. Parisi for his review and approval of being in compliance with the Procurement Policy. They did look at other companies but decided to stay with Ronco because of dependability, cooperation and service. Blazick said this would be purchased under H-97 Funds.

The Building Inspection asked if the telephone system would have an ID Component to it. Blazick thought it did.

Blazick asked for 1) approval to purchase the equipment; 2) authorize the Supervisor to sign related agreements and paperwork.

**Geiben MOVED the purchase and installation of the telephone system from Ronco in the amount of \$55,000 from the H97 Fund. Seconded by Ceretto and carried 5-0.**

**Geiben MOVED to authorize the Supervisor to sign said Agreement with Ronco. Seconded by Ceretto and carried 5-0.**

**Geiben MOVED to change the telephone system from New Horizon to Spectrum and authorize the Supervisor to sign any required paperwork. Seconded by Bax and carried 5-0.**

*OLD BUSINESS:*

Court Security Officer (A. Sicurella): The Supervisor said there would be no action taken. Geiben said any future request for employment from a former employee should complete a Civil Service application and go thru the employment process.

Fire Hydrant Installation – 817/823 The Circle Dr: Townsend requests this be tabled until the next meeting, on advice of counsel.

Cafarella one-lot Subdivision: Atty. Catalano said he spoke with Ms. Cafarella after the last meeting. He explained the resolution the Board put forward regarding the driveway. Cafarella said she had no intentions of moving the driveway and would no longer need the variance and would most likely be selling the home.

**Bax MOVED to deny the request from Ms. Cafarella for a one-lot subdivision at 953 Ridge Road. Seconded by Geiben and carried 5-0.**

Lower River Road water issue: Broderick said this was an issue whereby the homeowner called HW Bryk & Sons in 2014 to repair an existing copper water service that was leaking. Bryk was never paid for the service.

Bax asked to table the matter until they can address it further with Bryk.

Laborer's Position – Parks Department: Dashineau asked for a motion to reclassify the current open position of Laborer F/T to Head Groundsperson F/T at an hourly rate of \$19.07 and to advertise said position.

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

Bids: Removal of Ash Trees in Greenspace:

Dashineau asked for a motion to authorize the Supervisor to sign a contract with Angry Beaver Tree Services in the amount of \$34,500, contingent on approval from the Attorney and Angry Beaver Tree Service supplying the Town with all required insurance and employment forms per the bid specifications.

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

- a) **Bax MOVED to authorize the Finance Director to use available funds in capital line TE-04 for completion of the Lewistowne Park Development Greenspace Ash Tree Removal Contract. Seconded by Geiben and carried 5-0.**
- b) **Bax MOVED to authorize the Finance Director to use available funds in H-97 for completion of the Lewistowne Park Development Greenspace Ash Tree Removal Contract. Seconded by Geiben and carried 5-0.**
- c) **Bax MOVED to notify all affected resident of the Greenspace Tree Removal Plan and request that all property that has encroached on to the green space be removed. Seconded by Ceretto and carried 5-0.**

Church on the Escarpment: **Geiben MOVED to direct the attorneys to negotiate with Niagara Frontier Bible Church for ownership of existing playground equipment. Seconded by Bax and carried 5-0.**

Excess Equipment: **Ceretto MOVED to declare the following inventory as excess equipment to be placed on Auctions International to determine its value: Commercial walk behind mowers, Snow Blower, Walk behind mower, Front deck mower, Utility pick-up, Golf Cart, Refrigerator, Mower with roller, Water Reel, Zero Turn Mower, and a Utility Vehicle. Seconded by Morreale and carried 5-0.**

Participation in 2020 Census: **Geiben MOVED to authorize Broderick, Donna Garfinkel and John Sharpe to participate in the 2020 Census. Seconded Bax and carried 5-0.**

Video Equipment: Catalano said the Board, several months back, approved the purchase of video equipment. He said he is aware the Board would like to purchase two cameras, an iPad and a microphone system. That amount would cost under \$2,500.

**Geiben MOVED to appoint Town Clerk, Donna Garfinkel, as department head in charge of purchasing video equipment for Town Hall. Seconded by Morreale and carried 5-0.**

Geiben said they are continuing to work with NCCC for the next aspect of the program.

Drainage Issue, Saunders Settlement Road: Parisi said the Town Engineer and Highway Supt. went to the site where new pipe is needed. The Engineer is going to do a quick survey and Parisi said he would draft an easement for the homeowner to sign for the placement on the pipe. No action was taken.

Dog Shelter: The Engineer said this is a work in progress.

*NEW BUSINESS:*

Personnel Issue: The Supervisor read a request from Barbara Joseph who has been on prolonged sick time. She has exhausted all her sick, vacation and personal time. She is

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requesting an additional twenty (20) sick days, at half pay, as per the employee handbook (Section 803 – Sick Leave – Additional Allowances).

Parisi asked the Board to table this request to allow him time to look into it. The handbook specifically exempts unionized employees from that particular benefit.

Sewer Exemptions:

a) Bajor, Buffalo St; b) Blum, Griffin St; c) Strong, Michelle Ct.

As per a memo from Jeff Ritter, the requests from Bajor and Blum do not fit within the Sewer Use Agreement for sewer forgiveness.

**Bax MOVED to deny the request from Bajor and Blum for sewer forgiveness. Seconded by Geiben and carried 5-0.**

**Bax MOVED to approve a sewer credit for Ray Strong, Michelle Court in the amount of \$97.40. Seconded by Morreale and carried 5-0.**

Local Law Introductions:

Geiben introduced a proposed Local Law amending the Zoning Provisions of the Town Code. §360-29(B) is hereby amended and the zoning classifications for the Southeastern portion of a property identified as SBL# 115.00-1-2 and more specifically described in Deeds bearing Instrument Numbers 2011-10647 and 2015-02248 and filed with the Niagara County Clerk's Office on June 24, 2011 and February 12, 2015 respectively, are changed from "RR Districts: Rural Residential" to "Planned Unit Development Districts."

Geiben asked if this applied to Niagara University's situation. Parisi said it did. Niagara University is zoned PUD (Planned Unit Development). The properties referenced in the local law were owned by the Power Authority. They have been transferred to N.U. The University wants these parcels to be part of their PUD footprint. Parisi said the Board is just introducing the law at this point. He asked the Board to pass a resolution announcing the Town Board's intent to act as Lead Agency for the purposes of the SEQRA.

**Geiben MOVED the Town Board's intent to act as Lead Agency for the purposes of SEQRA on said local law. Seconded by Bax and carried 5-0.**

Geiben introduced a proposed Local Law amending Chapter 360 of the Town Code to include a Special Use in certain zoning districts.

The proposed law is written as follows: Section 360-50 of the code of the Town of Lewiston is hereby amended to include the following:

M. Emergency Services and Fire Protection Services, training facilities, and incidental facilities on land owned or operated by a Fire Company or Emergency Service Provider, or on municipally owned land.

Section 360-108 of the Code of the Town of Lewiston is hereby amended to include the following:

E. Emergency Services and Fire Protection Services, training facilities, and incidental facilities on land owned or operated by a Fire Company or Emergency Service Provider, or on municipally owned land.

Section 360-114 of the Code of the Town of Lewiston is hereby amended to include the following:

C. Emergency Services and Fire Protection Services, training facilities, and incidental facilities on land owned or operated by a Fire Company or Emergency Service Provider, or on municipally owned land.

**Geiben MOVED the Town Board's intent to act as Lead Agency for the purposes of SEQRA on said local law. Seconded by Bax and carried 5-0.**

Geiben said the Board received notification from the NYS Office of Parks, Recreation and Historic Preservation that they are seeking SEQR Lead Agency Designation for the Niagara Gorge Restoration Project. Notification received and filed.

Niagara County Resolution: Bax said the Legislature has been considering a resolution authorizing an Intermunicipal Agreement between the County of Niagara, County of Orleans, City of Lockport, City of Niagara Falls and City of North Tonawanda relative to the Creation of the Norlic, a New York Land Bank. Received and filed.

*PRIVILEGE OF THE FLOOR:*

Nancy Correa, Riverwalk Drive, commented on Mr. Metzger's argument in support of what she had previously stated. We need to update the Town's Comprehensive Plan. The PUD, originally, was approved in the 80's. A lot of changes have taken place. I think the Board needs to consider looking at reviewing and updating the Comprehensive Plan. One of the things Metzger talked about was a traffic study having no significant impact on what is currently there. I would like to see that traffic study be put on the website so that all the interested participants that were here today have access to that information. In addition, there was discussion at one of the previous meetings, that a traffic study was to be paid for by the developer, which he did, but the Town would be the Lead Agency in overseeing that traffic study because we know that whoever pays for something has a lot of influence on the outcome of whatever document is presented. I also understand that there was an environmental document submitted today that perhaps should have been put on the website. I ask that you encourage all Chairpersons to submit documents on a timely basis to the Town Clerk so it can be put on the website.

Rosemary Warren, Griffin St. believes having department heads speak at each meeting is a plus. If more people came to the meetings, they would better understand government. Also, anybody who runs for public office should attend meetings for 5-6 years.

Paulette Glasgow, The Circle Dr., asked if a 1-800 number would be available to Sanborn residents. Right now, it is long distance. Broderick said they would check into that.

Glasgow agreed with Mrs. Correa on the traffic study. The traffic study should be independent. The Town of Lewiston should have been the Lead Agent.

The Environmental Commission approved this in July. Did they know there were Federal and State wetlands when they issued a negative declaration? Did the Niagara County Planning Board know this?

Conrad, Chairman of the Planning Board, said the Planning Board approved the concept plan in August. They knew about the wetlands early on in the project. The developer came back to the Planning Board with new boundaries. They found that what they thought were Federal Wetlands, were State Wetlands, which are more restrictive. That is why they wiped out Phase 4. If the NCPB did not know about the wetlands, they should re-visit this. She asked if this Plan would be on the website. Masters didn't think there was a way to put it on the website. Broderick said they would make every effort to do so.

Glasgow said she had other concerns including water flow issues. Broderick asked her to email him any questions. He would forward them to the developer.

Carol Siejka, Bronson Dr., asked what road they did the traffic study on. She strongly suggested that a study be done for Bronson Dr. Lewiston has a good highway crew but come winter time, sometimes you cannot get up that hill. Putting more cars there will cause more problems.

Simon Shakarjian said he is the first house going down Bronson where it enters into Saddlewood. Bronson Drive is 66' wide. Upper Mountain Rd is 49.5' wide. You have

a disparity between the two roads. Upper Mountain has a lot more traffic than Bronson. I'm not sure that either road can take as much traffic for what their plans for the development are. I'm not sure either road can take more traffic for the 107 units they are proposing. Estimating 2 cars per unit, that is an additional 214 vehicles between Bronson and Upper Mountain. Something has to give here and I am not sure what. This has to be looked into.

Robert Mastrorilli, 899 Upper Mountain Rd., said the proposed access road on Upper Mountain is right next to his house. It could ruin all of his activities in his back yard. If I try and sell my house, that road would drive down the market value. Broderick asked the homeowner to contact him the next day. He would meet him at the house.

Margy DiMino, Bronson Drive, said Morreale asked about a study and a need for these homes. If one takes a drive in that area, one would count a handful of townhouses for sale. What is the need for more?

Sharon Pifer-Rugg said her parent's built their home on Bronson Drive 65 years ago with the idea they would have privacy. With this proposed development two or possibly more homes would abut against the property. The plan as of right now, there would be no greenspace between her mother's home and the neighbor. I have a huge problem with that, she said.

She contacted former Town Engineer, Bill Rugg who was in the position in 1985 when the first plan came about. He said that if that plan had been approved, he would have remembered it. What they approved was a drawing, not a plan. If they can't produce the plan or the minutes for that plan, it is not an approved plan. She thanked the Board for listening and asked for their compassion on their situation.

**Geiben MOVED to adjourn the meeting. Seconded by Ceretto and carried 5-0. Time: 8:30 p.m.**

Transcribed and  
Respectfully submitted by

Carole N. Schroeder  
Deputy Town Clerk