

**PRESENT:** Supervisor S. Broderick; Dep. Sup. B. Conrad; Councilmembers B. Geiben, J. Jacoby, R. Morreale & J. Myers; Atty. A. Bax; Eng. B. Lannon; Bldg. Insp. T. Masters; Finance Director J. Agnello; Highway Supt. M. Zahno; Water Crew Chief J. Dell; Rec. Dir. T. Smith; Historian M. Maggard; and Dep. Clerk C. Schroeder

**ZOOM ATTENDEES:** WPCC Ch. Op. J. Ritter; & Sr. Cit. Coordinator M. Olick

The Supervisor called the meeting to order, followed by the Pledge of Allegiance and a moment of silent reflection in remembrance of the victims of the 9/11 attacks 22 years ago today.

Broderick opened the first public hearing re L.L. #2, 2023 – Solar Moratorium.

**Geiben MOVED to dispense reading of the notice and to enter said legal notice in the minutes in its entirety. Seconded by Jacoby and carried 5-0.**

Public Notice as advertised:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 11th day of September, 2023 at 6:00 p.m. at the Town Hall, 1375 Ridge Rd., Lewiston, NY on the adoption of a proposed Local Law entitled, “A Local Law Establishing a Six-Month Moratorium on new applications, approvals, and/or construction or installation of Solar Energy Systems and/or Solar Farms.

The purpose of this Local Law is to amend the Code to place a six (6) month moratorium on the processing, permitting and/or construction of ground mounted solar panels and solar farms within the Town of Lewiston to allow time for the research, development and adoption of a Solar Overlay to the Town of Lewiston Zoning Code together with any appropriate amendments to the Town of Lewiston Solar Code which regulates these types of uses. This time will give the Town Board the ability to complete all reasonable and necessary review, study analysis and, if warranted, revision to the Town of Lewiston Zoning Code as may be necessary to promote and preserve the health, safety and welfare of the Town of Lewiston and its residents.

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, or can be emailed upon request.

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

Dated: August 28, 2023

The Supervisor asked for public comment. No one spoke.

**Geiben MOVED to close the public hearing. Seconded by Morreale and carried 5-0.**

Time: 6:03 PM.

Broderick opened the second public hearing re L.L. #3, 2023 – Set Water Rates.

**Geiben MOVED to dispense reading of the notice and to enter said legal notice in the minutes in its entirety, Seconded by Jacoby and carried 5-0.**

Public Notice as advertised:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 11<sup>th</sup> day of September, 2023 at 6:00 p.m., at the Town Hall, 1375 Ridge Rd, Lewiston, NY, on the adoption of a proposed Local Law entitled, “A Local Law Amending § A367-39-44 Water Rates Set” of the Code of the Town of Lewiston, an abstract of which is as follows:

The purpose of this Local Law is to amend the Code of the Town Lewiston to allow for the Town Board of the Town of Lewiston to establish water rates for both “in district” users and “out of district” users.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours.

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

Dated: August 28, 2023

The Supervisor asked for public comment. No one spoke.

**Geiben MOVED to close the Public Hearing, Seconded by Morreale and carried 5-0.**  
Time: 6:05 PM.

*AGENDA:* Additions: Broderick: Presentation from Council on the Arts; Engineering Proposal at Riverfront Park & Water/Sewer Re-levy.

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

*APPROVAL OF MINUTES:*

**Morreale MOVED to approve the minutes of 8/28/2023 – RTBM. Seconded by Jacoby and carried 5-0.**

*ABSTRACT:*

**Morreale MOVED to approve the Regular Abstract of Claims Numbered 23-02322 thru 23-02440 and recommended payment in the amount of \$189,694.09, plus a post-audit of \$18,932.19. Seconded by Geiben and carried 5-0.**

*DEPARTMENT HEAD STATEMENTS:*

Finance: Director Agnello announced that John Walker, Jr. Accountant, would be leaving for a full-time position elsewhere. His last day of service with the Town is 9/25/23. Agnello asked permission to begin a search for his replacement.

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

Highway: Supt. Zahno said there are a number of bunk beds in the cabins from Stonehaven Camp that he would like to list on Auctions International.

**Geiben MOVED to declare the bunk beds at Stonehaven as excess equipment and placed on Auctions International. Seconded by Jacoby and carried 5-0.**

Zahno said a professional ice rink technician looked at the old ice rink stored at the garage and declared it had no value. He asked permission to dispose of it.

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

Zahno obtained two quotes for concrete curbing on Country Club Trail. The lowest bid came in at \$93,980.00. Broderick said because of the dollar amount, he believed it would have to be a sealed bid. He asked Lannon to come up with specifications to advertise for sealed bids. Highway crews would commence on the drainage.

Bax said another issue is that the back-end of Country Club Trail was never dedicated. The Town is responsible for the repairs.

Seniors: Coordinator Olick, announced a Flu shot clinic will be held at the center on 9/19. A lot of seniors are participating in exercise classes, whereby they had to turn some people away. We're busy, she said.

Broderick and Morreale have been working with National Grid on getting the parking lot lit.

Recreation: Dir. Smith said a Cornhole league started last week. Looking to do another in the Spring and Fall and one at the Senior Center during the baseball season. They have had a great response to yoga. Two additional classes were added. Sundays 9/17 & 9/24 from 10-11. They are working on the Fall Festival and after that, "Trunk or Treat".

Smith is working with Niagara University for 16 days of open skating. They are planning several "theme" dates. He is looking for local sponsors. Dates will be finalized this week and will be posted after that on Facebook. There will be no season passes this year. Prices will stay the same as last year.

*OLD/PENDING BUSINESS – None*

*NEW BUSINESS – Council on the Arts*

Maria Fortuna Dean spoke on behalf of the Council on the Arts seeking support for Niagara River Greenway Funding to create a Public Art Project in the Village of Lewiston.

The three prongs of the Public Art Project:

- Mural at Academy Park - Located on the “comfort station” on 9<sup>th</sup> Street – a collaborative concept of the four-wall Mural reflecting the abundant orchards, vineyards, farmland and wildlife long the Niagara River. Metal sculptural components will provide visitors and residents with photo ops on all four sides of the building. A custom bike rack will allow bicyclists to safely store their bikes while they explore Lewiston.
- Lewiston Living Art Gallery – Starting at Academy Park and continuing along Center Street is a series of ten large scale, two-sided outdoor frames. The frames themselves are artistic creations and their design will be the first of its kind. The frames will be able to rotate to display works that are oriented either vertically or horizontally, and will illuminate the artwork after sunset. This open-air gallery will feature art works curated by theme, by artist or by other commonalities that will change on a determined schedule.
- Artistic benches for the Discover Niagara Shuttle Stop at Academy Park (8<sup>th</sup> and Center); Northwest Bank near Village Clock (5<sup>th</sup> and Center) and Lewiston Landing (Water St and Center St). Benches are tastefully designed to both complement the existing street aesthetic and, by virtue of their blue color and Discover Niagara Logo, they are easy to locate for visitors who are seeking them out.

**Broderick MOVED to approve Greenway funding in the amount of \$90,000.00 to the Council on the Arts for the Public Art Project. Seconded by Jacoby and carried 5-0.**

**BRODERICK**

1. Legal:

2660 Saunders Settlement Road Solar: Bax said he had three (3) items for the Board’s consideration as it relates to 2660 Saunders Settlement Road Solar.

The first item is Town Board approval to the language of the Decommissioning Bond.

**Morreale MOVED approval of the Decommissioning Bond. Seconded by Geiben and carried 5-0.**

The second item is approval of the PILOT Agreement, whereby the Town would receive payment in the amount of \$1,000.00 per year for the life of the PILOT (15 years) without increase.

**Morreale MOVED for approval of the PILOT Agreement relating to premises located at 2660 Saunders Settlement Road. Seconded by Jacoby and carried 5-0.**

**Jacoby MOVED to authorize the Supervisor to sign said PILOT Agreement. Seconded by Morreale and carried 5-0.**

The third item is approval of the Host Community Agreement (HCA) whereby the project will be paying the Town an up-front payment of \$80,000.00 and \$3,000.00 per megawatt/hour per year for the HCA (4.5 megawatts) increasing at the rate of 3% per year. The HCA has a 15-year term at which time the parties are to renegotiate a new HCA upon same or similar terms.

**Morreale MOVED to approval of the Host Community Agreement for the Solar Project. Seconded by Jacoby and carried 5-0.**

**Morreale MOVED to authorize the Supervisor to sign said Host Community Agreement. Seconded by Myers and carried 5-0.**

2. Engineer: Pavilion at Riverfront Park.

Lannon said there is interest in putting a second and identical pavilion to match the one at Riverfront Park that is there already. They would update their documents at a cost of \$3,000 to bid and \$4,000 to finalize the design.

**Morreale MOVED to authorize GHD to move forward on the bid for a second pavilion at Riverfront park. Seconded by Jacoby and carried 5-0.**

In regards to that, Supervisor said they are going with the same identical pavilion that is there now. He asked for a motion to go to the Host Communities to request approximately \$500,000 in Greenway Funds for the second pavilion and any other structure for that facility.

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

Riverwalk: Since the closing of the Pletcher Road entrance to Joseph Davis Park, there has been an increased amount of non-resident traffic cruising through the Riverwalk community. The Riverwalk HOA Board is requesting the Town install a stop sign at the southwest corner of Riverwalk Drive and Riverwalk Drive South. Currently, vehicles traveling east on Riverwalk Drive are not required to stop before turning right on to Riverwalk Drive South, putting pedestrians (crossing either street) at a greater risk than necessary.

Broderick said he addressed this with the Highway Supt. Zahno said he would put up the additional signs.

3. Finance: The Finance Director asked approval to process the following 2023 budget revisions:

A request to move \$890.00 to Professional Report Fees (A00-1220-0401-0000) from Supervisor's Contractual (A00-1220-0400-0000) to cover Municipal Solutions 2022 Disclosure Report.

A request to move \$75.00 to Recreation Concessions Contractual (A00-7310-0402-0000) from Recreation Contractual (A00-7310-0400-0000) to cover Concession Contractual expenses.

A request to move \$1,050.00 to Seniors Equipment (A00-7630-0200-0000) from Sanborn Seniors Contractual (A00-7635-0400-0000) to cover a new Sonic Firewall Server for the Senior Center.

A request to move \$69,000.00 to Police Equipment (B00-3120-0200-0000) from B Fund Balance (B00-1000-0599-0000) to cover the purchase of and replacement SUV (approved at the April 10 TMB) and lifesaving medical trauma kits for each of the Police vehicles.

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

*GEIBEN:* Geiben said the Peach Festival was fantastic. The Historical Association of Lewiston will be sponsoring Jeopardy at the Brickyard on Thursday 9/14. It is a ticketed event.

*JACOBY:* At the last meeting the Board approved a request from David DiPietro for a Site Plan on Buffalo Street, SBL 118.20-1-22. However, the motion did not specifically mention the stipulations of approval.

**Jacoby MOVED to approve the DiPietro Site Plan, Buffalo St, SBL 118.20-1-22 contingent on moving the porta potty to the northeast corner of the garage, elimination of the 5 parking spots directly behind the farm stand which would be on the east side, the elimination of the last parking spot on the southwest side and the stipulation that the vendor area remain a seasonal or a portable vendor area and no permanent structures are included. Seconded by Geiben and carried 5-0.**

*MORREALE:* Nothing to report

*MYERS:*

*Water/Sewer Re-L Levy:* Tamara Burns, Deputy Clerk asked approval to place unpaid water and sewer accounts for the Town of Lewiston on the 2024 Town and County taxes. The breakdown is as follows:

Water - \$86,040.10; Sewer (Master) - \$41,775.63; Sewer (South) - \$7,691.03 and Town Charge - \$27,700.00 for a TOTAL - \$163,206.76.

**Myers MOVED to place the unpaid water and sewer accounts on the 2024 Town and County Taxes. Seconded by Geiben and carried 5-0.**

As he does every year, Broderick said there is a \$100.00 Town charge to people who don't pay their water bill that goes on their taxes. That fee this year amounts to \$27,700.

Broderick said he would like to move forward with the approvals on the local laws for the solar moratorium and water rates.

**Broderick MOVED the adoption of Local Law #2 – 2023. Seconded by Morreale as follows:**

SECTION 1. TITLE: This law shall be known as Local Law No. 2 of the Year 2023 entitled "A Local Law Establishing a Six-Month MORATORIUM on New Applications, Approvals, and/or construction or Installation on Solar Energy Systems / and or Solar Farms".

SECTION 2. PURPOSE: The purpose of this Local Law is to amend the Code to place a six (6) month moratorium on the processing, permitting and/or construction of ground mounted solar panels and solar farms within the Town of Lewiston to allow time for the research, development and adoption of a Solar Overlay to the Town of Lewiston Zoning Code together with any appropriate amendments to the Town of Lewiston Solar Code which regulates these types of uses. This time will give the Town Board the ability to complete all reasonable and necessary review, study analysis and, if warranted, revision to the Town of Lewiston Zoning Code as may be necessary to promote and preserve the health, safety and welfare of the Town of Lewiston and its residents.

SECTION 3. EXEMPTIONS: This Law shall not apply to any solar project previously approved by the Lewiston Town Board or any application for a solar energy system/solar farm in the I-1 Zoning District.

SECTION 4. TERM: This moratorium shall be in effect for a period of six (6) consecutive months from its effective date. This term may be extended for a cumulative period of up to an additional six (6) months, if necessary, by resolutions of the Town of Lewiston Town Board.

SECTION 5. SEVERABILITY: If any portion, subsection, sentence, clause, phrase or portion thereof of this Local Law is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION 6. EFFECT ON OTHER LAWS: To the extent that any law, ordinance rule or regulation, or parts thereof are in conflict with the provisions of this Local Law, this Local Law shall control and supersede such law, ordinance, rule or regulation. Any provision of any local law requiring prior review by any Town of Lewiston advisory board, including without limitation, the Town of Lewiston Planning Board and Zoning Board, shall not be applicable to this Local Law.

SECTION 7. WHEN EFFECTIVE: This Local Law shall become effective immediately upon its filing in the office of the Secretary of State. On enactment of this

Local Law, the Moratorium shall remain in place for a six (6) month time period commencing with its effective date. This six (6) month time period may be extended by the Town Board by adoption of a Resolution for this.

**Roll Call vote. Geiben – Aye; Jacoby – Aye; Morreale – Aye; Myers – Aye; Broderick – Aye. Motion adopted 5-0.**

**Broderick MOVED the adoption of Local Law #3 – 2023. Seconded by Geiben, as follows:**

SECTION 1. TITLE: This law shall be known as Local Law No. 3 of the year 2023 entitled “A local Law amending Section A-367-44 Water Rates Set”.

SECTION 2. PURPOSE: The purpose of this Local Law is to amend the Code of the Town of Lewiston to allow for the Town Board of the Town of Lewiston to establish water rates for both “in district” users and “out of district” users.

SECTION 3. AMENDMENT: Accordingly, “§A-367-44 Water Rates Set” is hereby deleted in its entirety and replaced with the following language: “§A-367-44 Water Rates Set. The Town Board of the Town of Lewiston shall, from time to time set water rates for both users within the water district of the Town of Lewiston and for users outside of the water district of the Town of Lewiston. Said user rates shall be established separately by Town Board resolution and shall be made publicly available by the Town of Lewiston Water Department.”

SECTION 4. WHEN EFFECTIVE: This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

Roll Call vote. **Geiben – Aye; Jacoby – Aye; Morreale – Aye; Myers – Aye; Broderick – Aye. Motion adopted 5-0.**

Historian Maggard announced that the Sanborn Farm Museum is sponsoring a Country Breakfast on Sunday, 9/17, from 8 am to Noon. The cost is \$10 for all you can eat.

Broderick read the following two letters into the record re a B&B on Escarpment Drive:

The first is from Elizabeth Kelly, Escarpment Drive.

After a couple conversations with the Town Code Enforcement Officer, I was instructed to make my comments known at the next Board meeting regarding the “business” next door to me on Escarpment Drive.

I’ll cut to the chase to save all of your time. The owners of 1085 Escarpment Drive are running a noisy, motel like business next door to me and I am at a loss as to how to handle this situation.

I have been living in my home at 1093 Escarpment Drive since 1995. This is a very pleasant, family friendly area and I will tell you, there is not a neighbor on my block who I don’t know on a friendly first name basis. I’m very fortunate to live where I live. But it has changed now because of this commercial business being run at 1085 Escarpment Drive.

The last few years the owners of 1085 opened a Bed and Breakfast, and it's also pet friendly. The owner socializes with her guests (as she is quoted on her Air B&B website), and honestly, things are only getting worse around here. There are strangers from out of town every weekend and now I must lock and close my bedroom windows at night.

I am a Registered Nurse and I need to sleep at night, which on some nights is impossible to fall asleep due to the racket next door. My bedroom is about 40 or so feet away from the neighbor's deck and I can hear the cackling and noise well into the night. This can begin on a Thursday evening and last until Saturday evening. I am unable to keep my bedroom window open in the summer due to the noise. Drunken cackling is not conducive to falling asleep when you need to wake up at 5:00 am.

It's summer, we all like to have backyard get togethers with neighbors and friends and sometimes people get loud. We've all done it. This is expected. However, my neighbors at 1085 are consistent with the noise. The many car doors opening and closing late at night is disturbing, the guests dogs charging up against my fence barking at my dogs, it's just too much. At one point a guest's dog was loose in my fenced yard, headed down the back of my lot (escarpment which is dangerous) and the owner of the dog and the neighbor hopped my fence and followed the dog down to retrieve the dog. That's a liability!!! Very inconsiderate and careless.

I have a constant flow of cars making U-turns in my driveway at night, then the noises once they park next door. It's not what this neighborhood should be experiencing. We all bought our residential homes with the huge taxes to ensure quiet residential living and safety. This B&B needs to be shut down or moved to a commercial area.

If the B&B hosts were at all considerate of the other homes surrounding them, I wouldn't be writing this letter. There is no communication with the neighbors, believe me I have tried. Last year I gave her a large assortment of Hosta plants just trying to be neighborly, and the next week they are intruding on my peace and quiet. Inconsiderate and above the law is how I would describe them. I have been putting up with this for a few years and it's time to speak up.

Please pull their permit and allow this neighborhood to return to normal.

The Building Inspector said there is no permit. The homeowners have been sent a violation because a Bed & Breakfast is prohibited in a A-1 District.

The second letter came from Paul and Amy Incorvia, Escarpment Dr.:

As you begin to consider crafting new guidelines and Town regulations for the permitting of Airbnb dwellings in our town, please also look at the guidelines and permitting of any

and all Bed and Breakfast dwellings within the Town of Lewiston. The existing permit process dates back to the 1970's according to Supervisor Broderick.

We are submitting these comments as neighbors who have experienced living next to a bed and breakfast for approximately 3-4 years. Upon purchasing our home we were of the impression we were moving into a residentially zoned neighborhood and unaware that we would be living next to a business operating as a small hotel. We have nothing against bed and breakfast establishments per say, but given the close proximity to neighbors on Escarpment Drive operating such a business should be done with careful and thoughtful measure to protect neighbors.

We have had issues including but not limited to as many as four additional cars including another permanent tenant on any given night. Guests can arrive late in the evening beginning at 9 pm or later. There is a lot of noise including car doors slamming, loud talking and extra dogs on premises as well. We have had flashlights being pointed on our windows at night as well as loud gatherings on the patio which is approximately 40 feet from our bedroom window. Also, there have been spot lights just outside our windows left on the entire evening as well as debris and cigarette butts thrown over our hedges.

The owner at 1085 Escarpment Dr. cut some of our trees on our lot stating she had bed and breakfast permit so she could cut any trees that blocked her view.

The owner of this bed and breakfast is also an Airbnb operator. Their Airbnb listings operated right through the town's moratorium. For us as residents next to this establishment there is no distinction between an Airbnb dwelling and a bed and breakfast. The problems stem from the scope and size of the business and the manner in which it is being operated.

The Town Board should consider the following questions:

- What are the operating guidelines for a bed and breakfast in our town?
- How many guests can an operator have on any given evening?
- How many cars can be parked at a dwelling housing a bed and breakfast?
- Once issued a permit is an operator granted to keep that permit indefinitely?
- How do these bed and breakfast operations effect home values in a neighborhood? (would you want to live next to one?)
- If neighbors have issues with the bed and breakfast can the permit be revoked?

Had the operators of this Bed and Breakfast and Airbnb at 1085 Escarpment Dr. shown the least bit of consideration for their neighbors in the way they run their business, these comments may not have been necessary. We strongly urge the code enforcement department to consider the manner in which these operations are run and the problems neighbors incur when offering these permits. We request the permit for a bed and breakfast at 1085 Escarpment Dr. be revoked.

Thank you for putting our comments on record regarding any decisions made on permitting both Airbnb and bed and breakfast businesses.

*PRIVILEGE OF THE FLOOR* – No one spoke.

The Supervisor read the list of upcoming meetings. In closing, he said that September 11th is a somber day, his generation's Pearl Harbor. God Bless America.

**Morreale MOVED to adjourn. Seconded by Jacoby and carried 5-0.** Time: 6:22 pm.

Transcribed and  
Respectfully submitted by:

Carole N. Schroeder  
Deputy Town Clerk