

November 14, 2016 Public Hearing re: Extending Moratorium concerning the Disposal of Sludge, Sewage and Septage

Present: Supervisor S. Broderick; Councilmembers A. Bax, B. Ceretto, W. Geiben & R. Morreale; Dep. Sup. W. Conrad; Police Captain J. Penzotti; Eng. B. Lannon; Attorneys B. Seaman & J. Catalano; Finance Director/Budget Officer M. Blazick; Bldg. Insp. T. Masters; WPCC Ch. Op. J. Ritter; Water Foreman M. Townsend; Town Clerk D. Garfinkel; Highway Supt.-Elect D. Trane; Parks Director M. Dashineau; 1 Press; 10 Residents and Dep. Clerk C. Schroeder

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

The Clerk read the notice into the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston, on the 14th day of November, 2016, at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Lewiston, New York on the adoption of a proposed Local Law entitled, "Moratorium of Disposal of Sludge, Sewage Sludge and Septage," an abstract of which is as follows:

The Town Board of the Town of Lewiston currently has under review amendments to the Town Code with regard to solid waste and recycling. The matters pertaining to solid waste and recycling activity within the town emphasizes the need for suitable regulation under existing and clearly established standards, in an effort to plan for and protect the health, safety and well being of the citizens and property in the Town of Lewiston. The existing provisions contained in Chapter 293 of the town Code of the Town of Lewiston may not create and meet such appropriate standards and controls to allow for a harmonious balance and to protect the health, safety and well being of the citizens and property in the Town of Lewiston. The Town Board desires to review and address, in a careful manner, provisions relating to solid waste and recycling and the disposal of sludge, sewage sludge and septage on a comprehensive and town wide basis and to amend and/or adopt appropriate provisions to achieve these purposes.

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.

Ordered by the Town Board

Dated: October 24, 2016

The Supervisor asked for public comment. There being none he asked for a motion to close the hearing.

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

The Supervisor called the Work Session to order.

AGENDA:

Additions: Broderick: Notice of Retirement (Water Dept.); Sanborn Fire Co. Roster; Resolution for Mohawk Trail Project; Seaman: Executive Session re: Pending Litigation; Water Project and Status of Town-wide Water Districts.

Removal: Presentation from Director of Niagara River Greenway Commission (re-scheduled for December work session).

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

LOCAL LAW #5, 2016:

Attorney Catalano said the Board has before them a copy of the local law extending the moratorium on the disposal of sludge, sewage and septage. Catalano said there is continued litigation on-going in the Town of Wheatfield. Agriculture & Markets issued a ruling that the law in the Town of Wheatfield is unduly restrictive on farmers. "We don't want to put ourselves in a position where we put something together that ends up in litigation at any cost."

Geiben MOVED to adopt Local Law #5, 2016, a local law extending the Town of Lewiston's Moratorium concerning the disposal of sludge, sewage and septage. Seconded by Morreale.

The Clerk was asked to poll the Board:

Councilman Bax: Yes; Councilwoman Ceretto: Yes; Councilman Geiben: Yes; Councilman Morreale: Yes; Supervisor Broderick: Yes.

Motion carried 5-0.

ABSTRACT:

Bax MOVED to approve the Regular Abstract of Claims Numbered 3311 to 3558 and recommended payment in the amount of \$280,787.17, plus a post audit of \$20,624.37. Seconded by Geiben and carried 5-0.

DEPARTMENT HEAD CONCERNS:

Town Clerk: The Town Clerk said the Town put a 2008 Ford Crown Victoria, former maintenance vehicle (VIN: 2FHP71V48X176666) on Auctions International. The final bid came in at \$1,375.00. She asked the Board to accept this amount. She also requested that these dollars be put into the Town Hall Equipment budget for the purchase of rugs for the front foyer and possibly a refrigerator for the lunch room.

The Finance Director said the monies have to go into a revenue line, not an expense line. They can do a budget adjustment to increase the expense account once they get the money.

Bax MOVED to accept the bid of \$1,375 for the 2008 Ford Crown Victoria. Seconded by Geiben and carried 5-0.

Police: Surplus Equipment. Chief Previte said he would present something for the next meeting.

Building Inspector: Masters said they have some openings on several boards and commissions. He asked that the Board put in an advertisement seeking applicants. Two vacancies occur on the Planning Board and one vacancy on the Historic Preservation Commission.

Engineer: Nothing.

Deputy Supervisor: Geiben asked Conrad to do some research on Solar Farms. Broderick said he would help with this as he attended some informational meetings regarding this specific topic.

WPCC: Ritter thanked Dave Trane and Jeff Cosgrove for their help in digging and doing a road crossing for the Comfort Station.

Legal: Attorney Seaman said when they last talked about the Water Improvement Project he specified different routes the Board could take to get the entities set up correctly for the borrowing and bonding.

Seaman: What I found is that the Town, throughout the years and the decades going back to the 20's and 30's, started to set up water districts. This is how it was done. Everyone was on well water at one point. As parts of the Town got water service, they set up a water district so only those residents who were getting a water service would be taxed. Seven or eight different areas of the Town had that done. Then, in the late 70s, the Town did a couple of borrowings but they didn't do it as a water district borrowing.

They did what is called a Water Improvement Area borrowing. They spread that cost over the whole Town.

We are at a point now, in 2016, and for quite some time now, where the entire Town has water service. We're also at a point where none of those old water districts has any outstanding debt. So, it makes sense at this time to consider consolidating all of the water districts into a single water district that would cover the entire Town. This is the path that I'm recommending to the Board. It would simplify things and make everything a little bit cleaner and easier in the future.

This would be a two-step process. First, the Town would have to consolidate all of the existing water districts, outside the Village and excluding the Reservation. The Town would then expand that consolidated district to encompass the entire Town. In a lot of ways, this is how the Town is already operating. I talked with the guys in the Water Department. There is no distinction in their mind between the districts. I talked with Marti. There is no outstanding debt particular to specific districts. In a lot of ways, the Town is already functioning this way. It is just a matter of setting it set up legally to reflect that.

It will be a two step proceeding consolidating all the districts and then expanding to a Town-wide District. That second proceeding would involve also the borrowing. It may, or may not, require us to ask permission of the State Comptroller. Our Engineer will be doing a revised Map, Plan & Report that will have specifics of costs to residents, etc.

The other option or path we could go down is simply to have another Water Improvement Area. The advantage to that would be to save some time and save a little bit of money when it comes down to bond counsel review. You're only talking about \$2,000... The disadvantage to a Water Improvement Area is you would still have all these water districts.

I think, at this point, since everyone has access to water, it makes sense to have a single Town-wide Water District. There are no outstanding debts you would have to consolidate. It would be fairly clean to do at this point. It would make future projects a little bit more straight forward. I just need some direction from the Board as to which of those two paths you want to go down.

Again, Seaman said he is recommending a consolidated and expanded Town-wide water district. It fits into the way the Town is operating right now. It would make future water projects a little simpler and more stream-lined. There are going to be future water projects.

Broderick said he would go along with the recommendation of the Town Attorney to look at consolidating all the water districts in one Town-wide district. The Board was in agreement.

REQUEST FOR REMOVAL OF TOPSOIL – LANGDON/PORTER CENTER ROADS:

Duke L. Williams residing on Langdon Road requested permission to remove topsoil from his property at Langdon and Porter Center roads, stripped and piled next to pond built on his property.

Mr. Williams said they are in the process of bringing back 75 hives of bees from Arizona. He needs to clean his property up from brush, etc. He turned his other 28 acres into alfalfa this past fall so they would have feed for the bees. Williams said they need a home yard to take care of the bees. There is an acre pond there. The first thing they need is water. The topsoil was dug up in the late 1980s. It's about 1,000 yds.

The Building Inspector said he walked the site. The topsoil has been sitting around for a long time. There are trees growing out of the pile. Masters said he came back to the office and did some research. "At the time, pre-dating all of us here, they put a condition that they could not get rid of the topsoil."

Williams said it was his understanding that the agreement was that the topsoil had to remain in the Town of Lewiston. His assistant, Erik Wisor, said he read thru the records. "It does not say that you cannot remove the topsoil. It said the topsoil will

remain there for remediation later. He had DEC permits. The Town put in a law two weeks after he started digging these ponds. They stopped him and had him arrested but he was never charged... They fined him and took his money but it never got resolved.”

Broderick said he would have to review all past correspondence. They would not be able to take any action tonight.

Attorney Seaman said there are some pretty strict laws having to do with mining and that includes the removal and sale of topsoil in the Town. He just wanted to make the Town aware of that. We have procedures in place if you want to mine your property. You have to make certain applications. They are very onerous. They are not easy.

Again, Broderick said they would have to look into this with the Town Attorney and Building Inspector.

FINANCE: Blazick said she was asked to respond to comments made at the public hearing on the 2016 Preliminary Budget, 11/9/16.

Response to Public Hearing 11/9/16

1. **The library** was cut the 10% that all the other organizations were cut.
2. **Attorney fees** – it was mentioned that attorney fees were \$50,000 for personal services and \$100,000 for contractual back in the 1990’s. For the 2017 budget year, those two line items are a total of \$169,500 or an increase of \$19,500 - 20 years later. Considering that we are facing two major union negotiations, this amount seems very reasonable to me. The total legal expenses also include \$100,000 for the CWM legal action which Lewiston is participating in with the support of its residents. The town prosecutor and court security used to be included in the Town Justice section, Department 1110. However, this has been misclassified and was restated to the legal department or department 1420 in 2016. This is not so much an increase but a reclassification. Legal costs also include payment for our share of the Niagara Power Coalition of which the town is a member and was agreed to by previous administrations.
3. The treatment of **the NYPA revenue** is per our previous boards and two different auditing firms. I do not have any new information that would change this treatment.
4. **Dormant Capital Accounts**- before any dormant account can be eliminated, we must find the purpose of the fund, the source of its funds, and determine if the costs were spent according to the purpose of the fund. When I came into my position, I only had files on about half of the capital funds on the books. Many of those files were very incomplete and have required rebuilding.
 - a. Using the Joseph Davis Capital Fund as an example:
 - i. Identify its purpose. Although an old capital fund, the current dollar amount was money received in 2015 for the asbestos abatement in the building on Joseph Davis property.
 - ii. Identify its source – this was greenway money, not town money. Therefore, any excess will need to be returned to Greenway and not transferred into the A fund.
 - iii. Determine if the costs were all recorded in the capital fund – this research is what we are currently working on. We need to analyze the 2016 costs to make sure there isn’t any cost that properly belongs to this capital fund.
 - iv. We must also determine that there is no outstanding work that still needs to be done to complete the project. With the turnover of staffing, this is the kind of information that gets lost.
 - b. Another example would be the Hazmat Building fund. Researching the purpose of this fund and its source of revenue has required me to go back into the Board minutes of the mid 1990’s. It takes time and it is a work in progress.
5. **Power allocation funds** – the money that was designated as the resident funds is in a separate account and can only be used to pay back the residents. This is also a work in progress.
 - a. National Grid has turned down our request to refund through a credit on the utility bills. Because of the budget, I have not had a chance to reassess the issue and will need to go back to the drawing board. Note that I am in constant communication with the NYPA on this item and they are very aware of what we are trying to accomplish and are very supportive of those efforts.

- b. The part of the power allocation funds that are included in the budget are those that are designated for the Town's use and are being budgeted according to the agreement.
6. **5 year Capital Plan** – this is a work in progress. You can establish a meaningless plan in five minutes to satisfy our critics but that is not the approach the town is taking. For the first time ever, we have each department head trying to identify their capital needs and we are actually looking out 10 years. We are not only identifying the problem but trying to determine what is causing the need. But even this is not as simple as it appears on the surface. Let's use the Highway department as an example:
 - a. Highway has identified every inch of highway in the town of Lewiston and has ranked the condition of each road. The Superintendent of Roads has gone out with the Town Engineer to determine what the true condition of roads is. But they noticed that one stretch of road is constantly in poor condition no matter what they do to it. Upon further research, we realized that there is a drainage issue and the road is getting flooded. But we realized we don't have the necessary equipment to fix the drainage problem. We have addressed this in the current budget. And will address the road condition after the drainage problem is corrected. Fixing it first would be counter-productive.
7. **Fund Balance Policy** – it would be simple to pull a number out of our hat and establish a meaningless policy. That's not the way the current administration is approaching this. We have pulled examples of fund balance policies; we have been working with our auditors and we are registered for a fund balance policy webinar that is scheduled for this Wednesday. We must figure out the capital needs of each fund to establish a meaningful policy. We must also assess the kind of emergencies that are likely and what cash needs are realistic and necessary to maintain the services of each fund. We are trying to figure out the best levels of savings to help insure the least impact on the individual taxpayers. The needs of each fund are totally different from each other.
8. **Procurement policy and hiring policy.** I am not aware of us not following our policy so I will need to be given examples before I can respond to this.
9. **Donations of funds solicited by the town** – We are researching this. This is the first concern we heard on this issue and we have taken it very seriously. It would be helpful if residents would talk to us and let us know when they see issues they think are critical to the operation of the town.
10. **Who made the mess** – The supervisor has only been in his position for 10 ½ months. He didn't make the mess. But he realizes that it doesn't matter how we got here. We need to figure out and fix the problem once and for all so that the mistakes of the past are not repeated. This budget is the first step, of many, to make that happen. It is not always a pleasant process but it is a necessary one.
11. **Communication** – Come in – make an appointment. Let the Supervisor know what your concerns are. We can't respond to questions when we don't know what the question is.

HIGHWAY FUND TRANSFER: The Highway Supt. requested a transfer of \$90,000 from DB0-5112.0400 (Permanent Improvement) to DB0-5130.0200 (Machinery Equipment) for the purchase of some new equipment, i.e., ditching head for a skid steer, a bucket for a pay loader and a new service truck.

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

WATER DEPARTMENT LABORER: Water Foreman Mike Townsend said there will be a vacancy in his department with the pending retirement of Joseph LaDuca, effective December 30, 2016. He thanked Joe for his many years of service and his dedication to the Town. Townsend said he would advertise in-house to fill the vacancy.

Geiben MOVED to accept the retirement of Joseph LaDuca, effective December 30, 2016, with regret. Seconded by Morreale and carried 5-0.

Geiben MOVED to permit the Water Foreman to advertise to fill the vacancy of Joseph LaDuca. Seconded by Morreale and carried 5-0.

SEWER USE PERMIT & AGREEMENT (LMSD): Ritter said they have been trying to set up an agreement with Modern Landfill to accept leachate discharged from the landfill

at the Treatment Plant. With the help of Attorney Seaman, they were able to draft an agreement that was accepted by all parties. He is looking for a motion to authorize the Supervisor to sign the agreement.

Bax MOVED to authorize the Supervisor to execute the Sewer Use Permit with Modern Landfill, Inc. Seconded by Geiben and carried 5-0.

ADOPTION OF 2017 BUDGET:

Geiben MOVED to adopt the 2017 Budget, as presented. Seconded by Ceretto, for discussion.

Morreale commented: When I ran for the town Board this is what I was running for – budget issues. Since I came on in January, there is not a bill that went thru that I didn't review. The Town of Lewiston is big business. The costs are phenomenal. The payroll, the medical, workers comp. and everyday costs. It's phenomenal what I see go thru this Town. Lewiston is Lewiston for a reason. You tell people, I live in Lewiston that are not from here, they tell you what a beautiful place it is. It's safe, clean, and quaint. To cut the budget you have to have to give up some of these services. Do we really want to do that? Do we want to keep Lewiston the way that it is? That is the reason I'm going to end up voting for this budget. I want to keep it that way.

Ceretto and Bax agreed.

The Clerk was asked to pull the Board. Bax – Yes; Ceretto – Yes; Geiben – Yes; Morreale – Yes; Broderick – Yes. **Motion carried 5-0.**

The Board commended the Finance Director for all her hard work. Applause.

SANBORN FIRE COMPANY ROSTER: The Sanborn Fire Company submits for active membership the following name: Lynn Marie Allan. The prospective member is a resident in the Town of Wheatfield but resides in the vicinity and is available to render services as a volunteer fireman.

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

The Sanborn Fire Company submits for active membership the following name: John Messer. The prospective member is a resident of the Town of Wheatfield but resides in the vicinity and is available to render services as a volunteer fireman.

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

RECREATION: Ceretto noted that applications for employment for Rink Guards and Customer Service Operators are now online at www.LewPortSports.com or available at the Town Clerk's office. There will be open interviews on Monday, November 21 at 7 PM at the Town Hall. Monday, November 21 will also be the first pre-sale of season passes. Season passes are \$25 per individual or \$50 per family and can be purchased in person at the Town Hall on Monday, November 21 at 7 PM.

WILLIAMS 2-LOT SUBDIVISION: The Planning Board, on October 20, 2016 approved a request from Bernadine Williams for 2-lots for property located on Model City Road, SBL# 88.00-1-30, as presented.

Morreale MOVED the issuance of a negative declaration (no environmental impact). Seconded by Geiben and carried 5-0.

Morreale MOVED to approve the 2-lot subdivision, as presented. Seconded by Geiben and carried 5-0.

PROCLAMATION – SHOP NIAGARA 2016: The Supervisor read the proclamation, as follows:

Whereas, the Town of Lewiston would like every resident of Niagara County to understand the positive impact they can have on lowering property taxes by purchasing goods and services within Niagara County.

Whereas, the Town of Lewiston receives nearly 50% of its operating income from sales tax revenue sharing with Niagara County. A percentage of every purchase made anywhere within Niagara County is shared back to the local Towns, Cities and Villages to operate your government.

Whereas, the Town of Lewiston residents have told us that they want to keep property taxes low, improve the quality of life, grow our business community and shopping choices.

Whereas, the Town of Lewiston understands that by giving our residents this information the residents have it within their power to improve their quality of life, lower taxes and support local business. Every time you make a purchase you have a choice. Purchases made outside of Niagara County improve the lives of others and lowers their tax bills. Purchasing goods and services within Niagara County improves your life.

Geiben MOVED to approve the Shop Niagara 2016 Proclamation resolution, as read. Seconded by Bax and carried 5-0.

MOHAWK TRAIL PROJECT: Grant Writer, Bernie Rotella, presented a resolution authorizing an additional \$13,958 to complete the trail project. The total project cost is \$96,250. They have a grant from the DOT in the amount of \$80,000. They are submitting a request to the Greenway Commission for \$13,958.

Geiben MOVED the following resolution, Seconded by Bax, for discussion:

Whereas, the Town Board desires to use the Town of Lewiston's Niagara River Greenway funds for the **Mohawk Trail Project** for additional costs to complete the project; and

Whereas, the Town Board has to apply and request additional funding from the Niagara River Greenway Host Standing Committee.

Therefore be it Resolved, that the Town Board authorizes and submits a request for additional funding for **Mohawk Trail Project** in the amount of **\$13,958**, and

Resolved, that Steve Broderick, as Supervisor of the Town of Lewiston, is hereby authorized and directed to file an application for funding from the Niagara River Greenway Host Standing Committee to complete the **Mohawk Trail Project**.

Geiben said this had been requested by the Village of Lewiston to supplement the DOT Grant. This is their request.

Motion carried 5-0.

STATEMENTS BY RESIDENTS:

Rosemary Warren, Griffin Street: I am steaming. I am going to be writing the comptroller as soon as I get home. Those rebate checks should not have been held up. I don't care how much time that budget took or how hard Marti worked. We hired a Jr. Accountant. What were they doing? As I said I'm really steaming so I'm going to go home where I can control it. That is foolish. People need that money. They need it for heating. They need it for Christmas. They need it for food. I don't know what you're thinking of. In fact, we should get it with some interest... I don't know how many

months we've been waiting for the rebate checks. What can it take to run them and give them to us?

Tom Deal thanked the Board for their hard work on the budget. It is much appreciative. One thing he spoke about briefly was the changing demographics in Lewiston. The median age of a resident is 49. The median age for a person in New York is 38. The kindergarten class now at Lew-Port is 116 children, which is a record low. We need to be diligent about our expenditures and keeping taxes reasonable while leaving services intact to entice families to move here. If this continues at this rate, we're going to be coming up with these issues more and more as we go along. We need to keep things for families going so we can keep growing our population. If we keep going at this rate, it's just going to continue to snowball. The Recreation Center was a big issue. We really should have had that. I see different communities all over Western New York building beautiful centers. Being a real estate broker, I see this all the time. Families enjoy those kinds of conveniences. I know we have to be diligent with our taxes but we also have to continue to promote our area and provide things that are going to entice families to move here.

Bax MOVED to enter into Executive Session for the purpose of Pending Litigation. Seconded by Geiben and carried 5-0. Time: 7:15 p.m.

EXECUTIVE SESSION:

Minutes taken by Attorney Seaman.

Present: Broderick, Bax, Ceretto, Geiben, Morreale, Conrad, Catalano and Seaman

Issues Discussed: Pending Litigation

Morreale MOVED to exit executive session and reconvene work session. Seconded by Bax and carried 5-0. Time 7:54 p.m.

Action Taken: None

Ceretto MOVED to adjourn. Seconded by Morreale and carried 5-0. Time: 7:54 p.m.

Transcribed and
Respectfully submitted by

Carole N. Schroeder
Deputy Town Clerk