

PUBLIC HEARING

FINAL PLAT APPLICATION

August 24, 2020

6:00 pm

OAK RUN SUBDIVISION - PHASES 4 & 5

PRESENT: Supervisor S. Broderick; Councilmembers A. Bax, W. Geiben, J. Jacoby, J. Myers; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Eng. B. Lannon; Police Captain Cain; Senior Center Director M. Olick; WWTP Chief Opt. J. Ritter; 5 Residents; 1 Press and Clerk D. Garfinkel

EXCUSED: Dep. Sup. W. Conrad

Supervisor opened the meeting with the Pledge of Allegiance and a moment of Silent Reflection.

Clerk read Legal Ad into the record:

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Lewiston will hold a public hearing on Monday, August 24, 2020 at Town Hall, 1375 Ridge Rd, Lewiston, NY, at 6:00 P.M. concerning the application of Northwest Development Group, Inc. and Glen Andrews, for Final Plat Approval for Oak Run Subdivision, Phases 4 and 5, located at the east end of Oak Run Drive, Lewiston, NY. At the public hearing all interested parties who wish to be heard will be heard. August 13, 2020

Supervisor asked if anyone wished to speak – no one did

Bax MOVED to close the Public Hearing, Seconded by Jacoby and Carried 5 – 0. (6:02 pm)

REGULAR TOWN BOARD MEETING

August 24, 2020

PRESENT: Supervisor S. Broderick; Councilmembers A. Bax, W. Geiben, J. Jacoby, J. Myers; Bldg. Insp. T. Masters; Finance Director J. Agnello; Atty. T. Seaman; Eng. B. Lannon; Police Captain Cain; Senior Center Director M. Olick; WWTP Chief Opt. J. Ritter; 5 Residents; 1 Press and Clerk D. Garfinkel

EXCUSED: Dep. Sup. W. Conrad

AGENDA APPROVAL

Additions: Broderick – Executive Session – compensation - Non-Union employees; Fire Co. addition

RESIDENTS STATEMENTS

Clerk asked to read a letter received from a resident if they were not in attendance. The following was received:

Steve Lyle – Lower River Road

Great to see the speed and progress of the water line installation coming down River Road. The sooner the better. However, I continue to be concerned by the Board's apparent lack of oversight or auditing what is now a minimum \$1.4 million, no-bid contract.

After the Board, with some concern at the July 27 meeting, made sure the Senior Citizen shed had 3 bids! And looking at tonight's agenda, there is no mention of the project, its progress, and its costs. Am I the only one who sees the irony here?

Is the Town Board fulfilling its fiduciary responsibility? Financial oversight and good business practices require it. Again, this puts the Town Engineer in a potentially serious conflict of interest. He is a GHD employee. The Town engineer job is a side gig. His handling of this job may well be out of his control.

This Town engineer has bosses that want to make money. Like any business. You are forcing this contracted Town engineer to have to make very difficult choices, every day as the job unfolds. And how will you, the Town Board, even know?

This project still needs oversight by another competent engineering firm. Just contracting that service will doubtless save the Town more than the cost of the auditing. Is anyone beside the Town Engineer watching this \$1.4 million town cost? The Board's fiduciary responsibility requires it.

DEPARTMENT HEAD STATEMENTS

Town Clerk D. Garfinkel - Board approval of the Adoption of 2020 Resolution adopting the Retention & Disposition Schedule LGS-1.

Jacoby MOVED

BE IT RESOLVED, by the Lewiston Town Board of Lewiston, New York, that Retention & Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein.

FURTHER RESOLVED, that in accordance with Article 57-A:

A. Only those records will be disposed of that are described in Retention & Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;

B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit beyond established legal minimum periods.

Seconded by Geiben and Carried 5 – 0.

Building Inspector T. Masters – Fire Alarm System – Police / Parks Storage Building

Following bids have been received: Amherst Alarm - \$8,115.00; Powered Protection Inc. - \$8,892.17; Great Lakes Building Systems - \$18,520.13; All State Fire & Security - \$16,250.00

Masters has reviewed the bids along with Fire Inspector Pat Martin. Agnello said there is a \$399.00 annual maintenance fee that will be divided between Police and Recreation. The initial cost to come out of H-97.

Geiben MOVED to approve the bid from Amherst Alarm in the amount of \$8,115 with a \$399 Annual fee, with initial cost of the alarm system coming out of H-97, Seconded by Jacoby and Carried 5 – 0.

WWTP Chief Opt. J. Ritter

Ritter requests approval for the WWTP to participate in the annual Co-Op bid with the Niagara Falls Water Board to award the 2021 Municipal Waste Water Treatment Chemical Bids.

Bax MOVED to approve the Town's participation in the annual Co-Op bid with the Niagara Falls Water Board to award the 2021 Municipal Waste Water Treatment Chemical Bids, Seconded by Jacoby and Carried 5 – 0.

Senior Center Director M. Olick

The Senior Center will be reopening on September 1st with the lunch program, and then gradually open up the programs. Lunch program hours are 11:00 am – 12:30 pm.

Olick informed the Board that Van Drive John Cich will be retiring, with his last day being August 26th. This position will be posted through-out the buildings. Cich's letter was received by Amy Smith in the Supervisor's Office.

Geiben MOVED to accept John Cich's resignation as of August 26th, Seconded by Bax and Carried 5 – 0.

The Parks Dept. has been working on the other shed on the Center's property. Broderick thanked the Parks Dept. workers. The old shed has been demolished.

Final Plat Approval – Oak Run Phases 4 & 5

Seaman gave a synopsis of the past activities on this project. Northwest Development Group, Inc. applied for and obtained Final Plat approval for this subdivision back in approximately 2004. They filed Phases 1, 2 and 3 with the Clerk's Office sometime after that.

Then there were delays in the development of the rest of the project. The delay had kicked them back to the Planning Board, which they've done. The Planning Board is recommending approval to the Town Board.

Seaman said their application is almost exactly the same, with some very minor modifications. There is a wetland delineation, which resulted in a slight modification to a retention pond. There has been no other adjustment to the Plat.

Seaman suggests the Board identify the date and who drafted the Plat document.

Jacoby MOVED to approve the Final Plat for Oak Run Estates Subdivision, Phase 4 & 5, document dated August 14, 20 from Advanced Design Group, Seconded by Bax and Carried 5 – 0.

Seaman mentioned that in this scenario the SEQRA was not addressed because it was addressed as a Negative Declaration previously and there have been no changes.

Lannon said there was also an approval from the Niagara County Health Dept. for water and sewer system, and extended the approvals until June 1, 2021.

There is a letter from the developer stating that he will comply with the Town's I&I Mitigation program. He will either do construction within the system to remove the I&I or make payment of the fee.

Four PIP's have been submitted, Pavement & Curbs, Water Line, Sanitary Sewer and Storm Sewer. Lannon is requesting Board approval of these PIP's. All fees have been received. Lannon will not sign the Pavement & Curbs because the developer has not gotten together with the paving contractor. Once received and approved by Lannon and Seaman, Lannon will sign. This is the last bit of infrastructure so this works out.

There is a storm water pond in lot 23 & 24; therefore they will be subject to a deed restriction.

Geiben MOVED to approve the PIP's – Pavement & Curbs, Water Line, Sanitary Sewer and Storm Sewer, Seconded by Bax and Carried 5 – 0.

APPROVAL OF MEETING MINUTES - July 27, 2020 – Regular Town Board Meeting

Seaman is requesting an adjustment be made to the minutes. On page 64, add the sentence "This property transfer is from the Town of Lewiston to the Town of Lewiston. No new property is being acquired and the Town is merely subdividing a parcel of its own property."

Geiben MOVED approval of the July 27, 2020 meeting minutes as amended, Seconded by Bax and Carrie 5 – 0.

AUDIT PAYMENT

Bax MOVED to approve the Regular Abstract of claims numbered 19-13028, and 20-00185 & 20-00351 to 20-00489 and recommend payment in the amount of \$428,843.43 plus a Post-Audit of \$758.84, Seconded by Geiben and Carried 5 – 0.

Bax MOVED to approve the Regular Abstract of claims numbered 20-00490 to 20-00639 and recommend payment in the amount of \$217,365.25 plus a Post-Audit of \$185,437.66, Seconded by Jacoby and Carried 5 – 0.

PENDING / OLD BUSINESS - None

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

NYS Archives Model Resolution – already addressed

Brian Buzby – Community Solar – Ampion

Buzby thanked the Board for allowing him to speak. Ampion is the company that is responsible for managing the solar farm on Moore Road.

This Solar farm is part of a State run program called Community Distributed Generation. It is designed to encourage solar developers to build large solar farm and then offer some of the benefits to members of the community. That could be residents, small businesses, non-profits and/or municipalities.

The farm produces electricity that goes on to the grid. The Moore Road farm will power the equivalence to about 1,000 households.

Ampion's proposal would be the Town itself participates in the program, which allows the Town to save money on electricity costs. The secondary idea is the Town works with Ampion to promote this as an offering for the residents.

The Town would put the information on the website, mailing. Then Ampion would donate \$100 of each participating resident, to a special Town fund.

Ampion would review the Town's electricity costs; determine what percent share of the farm to set aside for the individual accounts. The power is then generated, sent to the grid, where it is tracked and metered and translated into a monetary credit. The credit appears as a new line item on the Town utility bills in lieu of cost. Ampion would then bill the Town in arrears for those credits, at 90¢/\$1.00.

It works the same for any residents, small business or non-profits.

Buzby contacted the Town because the Solar Farm is in the Town. Initially, there was a little skepticism, and the Town reached out to the County. The County responded by saying the Town has a great deal with the County, which is true.

Buzby then contacted the County himself and explained. This program is totally separate from a retail energy supply company. The Town gets a supply bill and a delivery bill. Ampion's program is just for the delivery bill. Once explained to the County, the County finds it to be a great deal also.

Bax said this would be a 10% savings on the delivery portion of the Town electric bills. Buzby said yes.

Buzby said the difference between a municipality and the resident is the term of the contract. The residents have a 90-day out; municipality would have 10 – 15 year contract.

Broderick said this needs to be reviewed by Ampion and they would present the contract. No decision needs to be made tonight.

Geiben requested Buzby forward a sample contract so the Attorney can start to review.

Upper Mountain Fire Company addition

Geiben MOVED to the approval of Oliphant, Bruce – Mountain View Drive to the Upper Mountain Drive Fire Company roster, effective August 24, 2020, Seconded by Jacoby and Carried 5 – 0.

2018 Water Project Update

The project is moving along very well. Creek Road should be completed by September 1st. The plan is to have each area/section done in 30 days, followed with the restoration. It is hoped to have all of the main line in on Lower River Road by November 1st.

There is no work done in December and January. There is a “No cost time extension” which adds two months at the other end, since no work is done in December and January.

Lannon gives a shout-out to Dan Zahno and his guys. They are very cooperative, and working together makes the job move nicely.

Zahno has been including Jeff Dell in all aspects of the project so he can see what and how these are done.

Jacoby questioned Lannon how long before Morgan Drive will be done. The residents there would like to see the street paved, but they understand that can't be done till the waterline is done. Lannon said it is thought to be done by Fall.

Jacoby said Sweethome Road residents are concerned about the fire hydrants. Lannon said new hydrants will be installed once the lines are ready.

Teamsters Contract approval

Seaman has spoken to the Board regarding the Union Contract with the clerical employees of the Town Hall. This was negotiated by Broderick, Agnello, B. Seaman and T. Seaman. Union members have approved the agreement.

Geiben MOVED to approve Teamsters Local 264 – PERB Petition CP#6314, dated January 1, 2020 – December 31, 2023, and authorized the Supervisor to sign, Seconded by Jacoby and Carried 5 – 0.

Engineering

The Patios at Essex Ridge project is moving along. There has been a lot of clearing of the land and the haul road is in. There is a public drainage easement between building C and D that has to be removed. They have agreed to this. The Map Cover needs to be revised. They will revise the entire set of drawings to reflect the current name.

In regards to the survey property line on Bronson Drive, the entrance will be reviewed. The survey of this particular resident has been forwarded to Metzger and Savarino.

Water connection will be made on the west side of Bronson Drive. The drawings will be revised to reflect this also.

Finance

Budget Revisions – Agnello requests budget revisions as outlined in a memo dated August 24, 2020.

Geiben MOVED to approve the following budget transfers: Transfer \$285.00 from Budget Officer Contractual - A00-1310-0400-0000 to Professional Report Fees Contractual - A00-1220-0401-0000; transfer \$360.00 from Election Personnel - A00-1450-0100-0000 to Election Contractual - A00-1450-0400-0000; Transfer \$450.00 from Dog Control Equipment - A00-3510-0200-0000 to Dog Control Contractual - A00-3510-0400-0000, Seconded by Bax and Carried 5 – 0.

Verizon Contract – Agnello requests Board approval. This is a New York State Office of General Services with Verizon. This is a saving of approximately \$117/month, for \$1,400/year, and is a 2-year contract. It has been reviewed by Seaman.

Geiben MOVED to approve the New York State Office of General Services, Procurement Services – Group 77017 – Award 23100 with/for Verizon Wireless, Seconded by Jacoby and Carried 5 – 0.

Agnello received the July Investment Report. Two investments matured in July – one on July 16th – with an interest earning of a little over \$16,000 and another on July 30th – with an interest earning of \$28,700. These dollars were reinvested.

On August 20th the Town's \$12.3 million BAN closed, and purchased by Oppenheim. The Town's BAN received the highest rating possible. The Town received \$100,000 in interest that can be used to off-set the interest or principal on this BAN.

COUNCILMAN BAX

Sewer Refund Requests: Casale – Raymond Drive; Norwich – Creek Road; Higley – Creek Road; Jester – Elliott Drive; Stout – Lower River Road

Bax MOVED to a sewer refund for Gariano - 5395 Elm Drive for 33,000 gallons of sewer/water credit, Seconded by Jacoby and Carried 5 – 0.

Bax MOVED to a sewer refund for Casale – 663 Raymond Drive in the amount of \$68.87 credit, Seconded by Jacoby and Carried 5 – 0.

Bax MOVED to a sewer refund for Norwich – 4420 Creek Road in the amount of \$77.78 credit, Seconded by Geiben and Carried 5 – 0.

Bax MOVED to a sewer refund for Higley – 4376 Creek Road in the amount of \$78.99 credit, Seconded by Jacoby and Carried 5 – 0.

Bax MOVED to a sewer refund for Jester - 870 Elliott Drive in the amount of \$76.96 credit, Seconded by Jacoby and Carried 5 – 0.

Bax MOVED to a sewer refund for Stout – 4490 Lower River Road in the amount of \$90.75 credit, Seconded by Jacoby and Carried 5 – 0.

COUNCILMAN GEIBEN - Liaison Report

Council on the Arts and Historic Association of Lewiston were being proactive in raising money and held a garage sale and raffle.

COUNCILMAN JACOBY - Liaison Report

Jacoby went to look at the homes being built by Essex in the Clarence area. They look to be nice houses.

COUNCILMAN MYERS

Congratulations to the Officers that were sworn in this evening.

RESIDENTS STATEMENTS

DiMino, Joe – Bronson Drive – DiMino thanks Masters and Jacoby for coming to his property to look over what his concerns are.

When this development started, there was an old drawing from 1982. This drawing shows that the back of DiMino property is 100 feet. Also shows that the proposed road was to be a stone base only road. It is obvious that this developer does not want to do that. This is a very, very important thing to them, as is DiMino's 5-feet of property. DiMino is sure they are use to muscling people out of their property, but he is prepared to go the distance.

When reading through his deed, DiMino said the property has changed hands 5 times. All along if there were an issue with the survey, DiMino believes this would have been seen.

DiMino reminded the Board that he is a resident and works for him, not Town developers.

Lannon said Essex will research the two surveys and determine, in their eyes, what is the resolution.

Broderick said nothing is going to happen as far as construction until this is resolved.

There is also a fence in question. DiMino was promised a privacy fence. (6-foot pressure treated) The way the road is designed, cars traveling west will point headlights into the back of the house.

Broderick asked Lannon to keep DiMino in the loop on this situation.

Town Historian Maggard asked the Board for any suggestions on the Town seals that were distributed at the last meeting. Broderick asked any Board member to reach out to Maggard with their comments.

Bax MOVED to enter into Executive Session, Seconded by Jacoby and Carried 5 – 0. (7:20 pm)

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, J. Myers; Dep. Atty. T. Seaman; Judge Thomas Sheeran

Discussion on compensation issues for certain non-union employees and University Drive.

Bax MOVED to exit Executive Session, Seconded by Geiben and Carried 5 – 0. (7:55 pm)

No action taken.

Bax MOVED to adjourn the meeting, Seconded by Geiben and Carried 5 – 0. (7:56 pm)

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk

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