

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, R. Morreale, J. Myers; Deputy Sup. W. Conrad, Atty. A. Bax; Highway Supt. Trane; Police Chief Previte, Finance Director J. Agnello, Eng. R. Lannon; Senior Center Director M. Olick, WWTP Chief Opt. J. Ritter, 13 residents, 1 press and Clerk D. Garfinkel

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

AGENDA APPROVAL

Additions: Geiben – County Website - Water; Jacoby – Police Explorers

Geiben MOVED to approve Agenda as amended, Seconded by Morreale and Carried 5 – 0.

RESIDENTS STATEMENTS – No one wished to speak

New York State DOT – Route 61 – Hyde Park Blvd. repair presentation on repairs to take place on Hyde Park Blvd, from Lockport Road, north to Lewiston Road, slated to begin March 2022 with a finish date of February 2023, if not sooner.

Keith Gawronski and Daniel Ludlow - NYS DOT gave a brief presentation

The project will include the interchange lane in the middle, which is within the Town of Niagara, Lewiston and the City of Niagara Falls.

Now exists; poor asphalt, curb ramps are not ADA compliant and severely deteriorating sidewalks.

The main objective of this project is to restore the pavement and use of the sidewalks, modify and replace existing curb ramps, cross-walks and pedestrian signals.

Project description: rehabilitate deteriorated pavement by milling and paving. Repair drainage structures and clean the closed drainage system. Two of three signals, will be get equipment upgrades and the one at Lockport Rd will be replaced. There will be pedestrian traffic upgrades.

Road Diet, this calls for restriping a stretch of road to remove at least one lane, and turning that pavement over for other purposes. (from Power Service Rd. to Lewiston Rd.) The current configuration is four travel lanes. It is proposed to have two travel lanes and a center turn lane and seven-foot shoulders for pedestrian access. The current traffic volume does not warrant the four travel lanes. The benefit of the Road Diet is it will provide a safe dedicated left turn lane, and provide straight shoulders for pedestrian to use.

Geiben asked if there was discussion of bike lanes and addressing the railroad crossings. Gawronski said no current plans for a bike lane. The two railroad crossings are active now, the other, Gawronski said he would have to check with CXS.

Previte questioned if the Traffic Study was conducted when Niagara University was in session? Gawronski said he believes it was pre-Covid and will check on the date in regards to Niagara University. Gawronski will report back to Previte.

DRESCHER & MALECKI – 2020 Town Audit Presentation - Carl Widmer, CPA

Auditor Communications – These are required communications between the Auditor and the Town.

RESPONSIBILITY - The responsibility of Drescher & Malecki is to provide a professional opinion on Financial Statements. There is a Departmental Financial Statement on each department, the Auditor Communication Letter and Management Letter.

Drescher & Malecki helps the Town file its Annual Financial Statement to the NYS Controllers Office. Drescher & Malecki prepares its professional opinion, which is called unmodified. It is a clean opinion, which means there are no reservations in saying that the Town is fairly stable.

INDEPENDENCE – As the Town’s external auditors, Widmer can verify that Drescher & Malecki are independent from the Town. There is no conflict of interests that stop the Town from hiring Drescher & Malecki.

SIGNIFICANT ACCOUNTING ESTIMATES - In the event there are any big changes the Board would be informed and there were none. This says, finances are being taken care of.

Widmer reviewed his presentation. First graph shows five (5) years of revenues over expenditures. The second, present the fund balance level at December 31 for the last five (5) years.

General Fund - Operations Trend. This is line-graph presenting total activities. Revenue verses expenditure for each of the last five (5) years. Revenues have come in positive over expenditures. There was some cost savings as a result of the decrease in spending during the Covid Pandemic.

General Fund – Fund Balance. Total fund balance for 2020 increased \$375,000 over last year. This represents 65% of the 2021 budget.

General – Town Outside Village Fund – Operations Trend. Similar to the General Fund, with revenues coming in over expenditures. Sales tax outperformed budget.

General – Town Outside Village Fund – Fund Balance. This improved \$485,000. This represents 65% of the 2021 Budget. A healthy fund balance in this fund.

Highway Fund – Operations Trend. Decrease in both revenues and expenditures.

Highway Fund – Fund Balance Trend. In past years this fund has been lower than then other funds. This year saw an improvement in the balance. This shows 27% of 2021 budget.

Water District Fund – Operations Trend. The revenues have remained consistent with last year. There was a decrease in spending due to the result of a large bond anticipation note being paid down and budgeted work not taking place.

Water District Fund – Fund Balance Trend. There was an increase of approximately \$600,000.

Sewer District Fund – Operations Trend. Small increase in revenues. There was some savings in employee benefits. Revenues came in a little over \$250,000.

Sewer District Fund – Fund Balance Trend. Amount represents 60% of 2021 budget.

Observations – Widmer said Drescher & Malecki is always available to any Board member. Town gets a clean bill of health, is in a positive financial position and over-all in a stable position.

The Management Letter – the number one comment would be to assist the Town in the future to help the Town implement a Fund Balance Policy.

Broderick called for a 5-minute recess.

DEPARTMENT HEAD STATEMENTS

Chief Previte – Previte spoke of two fatalities, in the Town, within the last month involving substances. This may be manslaughter charges. This has been a problem throughout the Town.

The office is receiving a lot of complaints, that people seem to be driving anyway they want to. Previte thanked the Board for the support with the Traffic Car, it has made a difference.

People are not stopping at stop signs, speeding, driving wrong. The Village streets are bad. Previte encourages anyone who has a concern, contact the office.

Highway Superintendent Trane – The Town will be milling and paving Model City Road. Trane is asking the Board to declare the millings excess material and of no value to the Town.

Geiben MOVED to declare the millings from the Model City Road paving as excess and encourage the Superintendent to find someone to haul it away, Seconded by Jacoby and Carried 5 – 0.

Trane spoke of a couple roads within the Town that have not been dedicated, and would like to make the Homeowners Association aware of it. This is so the Town does not end up footing the bill for any damages or structural issues.

Bax will work on a letter to be forwarded to them. Trane said if the Town Highway Dept. maintains a road for 10 years it becomes the Towns.

WWTP Chief Opt. J. Ritter – Ritter thanks all Town forces that came out to help on July 20th, during the very significant rain event. Many residents suffered flooding.

Senior Center Director M. Olick – Olick has reached out to local farmers to see if they would come to the Center to sell vegetables to the Seniors, but has been unable to obtain anyone.

Niagara Community Action Program has reached out to Olick to see if a Board member would like to be on the NCAP Board. If anyone is interested contact Olick.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve the June 28, 2021 – Town Board, Seconded by Myers and Carried 5 -0.

Geiben MOVED to approve July 2, 2021 – Special Town Board Meeting - Seasonal Hires, Seconded by Jacoby and Carried 5 -0.

AUDIT PAYMENT

Morreale MOVED to approve the Regular Abstract of Claims numbered 21-01688 – 21-01781 and recommend payment in the amount of \$103,112.93, plus a post-audit of \$7,147.20, and Regular Abstract of Claims numbered 21-01782 – 21-01956 and recommend payment in the amount of \$1,182,473.91, plus a post-Audit of \$10,752.04, Seconded by Geiben and Carried 5 – 0.

PENDING / OLD BUSINESS

Kilmer Solar Farm

The Board held a Public Hearing in June. Broderick received an answer to residents' concern regarding the National Fuel gas line along the back of the property. National Grid requires 50-foot from the gas line, and the project is 80-feet. National Grid doesn't have a problem with the Solar Farm.

Broderick will require 10-foot trees as a buffer. The landscape plan in the Solar Law calls for 6-foot trees, but because of the unique situation, being at the bottom of Townline Road, this will hopefully help.

Geiben has looked at other solar farms and was disappointed in the landscaping around the power poles. It should also be included that there is to be proper maintenance of the trees. Brown dead trees do not act as a visual barrier.

Broderick asked Conrad if camouflage slats are on this solar farm. Perram, Jared – SaturnPower representative, spoke and said slats in the fence are in the initial report, and will be green.

Broderick read the following Resolution for the State Environmental Quality Review Act Negative Declaration.

Resolution

WHEREAS, a proposed solar energy generation facility located at 4616 Townline Road, Lewiston, NY (the "Project") is being considered for approval of a Special Use Permit and Site Plan Approval by the Lewiston Town Board, and

WHEREAS, the Town has previously circulated notices of its intent to act as lead agency with respect to the Project for purposes of conducting a review under the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation adopted thereunder (6 NYCRR Part 617) (hereinafter collectively referred to as "SEQRA") to all involved and interested agencies, and has received no objection to its serving as lead agency; and

WHEREAS, a Full Environmental Assessment Form was prepared by GHD, the Town's Engineers, and was submitted to the Town Board (the "EAF"), and which EAF was also circulated to involved agencies for input pursuant to SEQRA, and

WHEREAS, the Town Board has considered the Project and reviewed the EAF and all comments received from involved or interested agencies, in light of the criteria set forth in SEQRA in order to determine whether the Project will have a significant effect on the environment, now therefore be it RESOLVED, that the Town Board of the Town of Lewiston hereby declares itself lead agency for the purposes of SEQRA review of the Project, and be it further

RESOLVED, that based upon the information set forth in the EAF, and for reasons more fully set forth in parts 2 and 3 of the EAF, the Town Board hereby determines that there will be no significant environmental impacts with regard to the Project, and hereby adopts and issues the attached Negative Declaration under SEQRA with respect thereto, and be it further

RESOLVED, that the Town Supervisor be, and hereby is, authorized to execute any necessary documents in conjunction hereto.

Geiben MOVED to approve the Negative Declaration as read, Seconded by Morreale and Carried 5 – 0.

Kloda, Roberta – Townline Road – Kloda asked what happens to this project since her building permit was already approved for a barn. The barn has been started. Will they have to move the existing distance off her property? Or will Kloda have to go back for a variance for her barn.

Masters believes if the building permit was issued after the approval of the solar farm, then yes. Kloda said "No it was not after the approval of the solar farm. The solar farm has not been approved, and it never went through variance."

Masters suggests Bax look into it. Masters looks at it as, it already went through the Planning and through all the vetting, coordinated review, and the Board is the final approval body.

Bax said he will make sure the Town has all the paperwork in order. Kloda asked if she can continue to build the barn. Bax said he will talk to her after.

Masters was not at the last Board meeting, so this conversation is new to him. When the solar farm application went to the Planning Board all the dimensions from the existing buildings were addressed. The question is, in the meantime between this coming to the Planning and now to the Town Board, did someone else come in and permit a barn within that setback, is the burden on the solar farm before their approval, to move the farm to adjust to her barn, or the solar farm application is already down the process this far, that she is allowed to put her barn there but the farm doesn't have to move.

Bax asked how far is the barn from the solar farm. Masters does not know. Broderick asked if her building permit is in the office.

Broderick called for a 5-minute recess for consultation with the Town Attorney relative to Kilmer Solar Farm issues. (7:06 pm – 7:18 pm)

Broderick thanked all for their patience. The Town is aware of the situation and the records and the Board members feel comfortable moving forward with their decision.

The following Resolution for the Site Plan and Special Use Permit for the Utility Scale Solar Energy System – Saturn Power - 4616 Townline Road was submitted to Broderick:

WHEREAS, the Town of Lewiston received an application from Saturn Power for a Special Use Permit and Site Plan review for a utility scale solar energy system to be located at 4616 Townline Road, Lewiston, New York; and

WHEREAS, the Town of Lewiston Planning Board reviewed the proposed project and recommended approval, with conditions, to the Town Board of the Town of Lewiston; and

WHEREAS, the Town of Lewiston Town Board, on June 28, 2021 did hold a duly advertised Public Hearing at Lewiston Town Hall, 1375 Ridge Road, Lewiston, New York, regarding the application for a Special Use Permit and site plan review of the proposed utility scale solar energy system and at such public hearing every party wishing to be heard was heard; and

WHEREAS, the Town Board has considered all relevant testimony, documents, and all other information presented and placed before it;

NOW THEREFORE BE IT RESOLVED, that based on the testimony, documents, and other information presented, the Town Board makes the following findings:

- a. That the use, a utility scale solar energy system, is designed, located and proposed to be operated so the public health, safety, welfare and convenience will be protected, to wit: the project has been designed and located such that the solar panels will be behind hedges and vegetation substantially reducing its visibility and impact to neighboring properties and public highways and the solar panels are enclosed by a chain link fence which inhibits physical access to the system; and
- b. That the use, a utility scale solar energy system, will not cause substantial injury to the value of other property in the neighborhood where it is located, to wit: the project has been designed and located, such that the solar panels will be behind hedges and vegetation thus substantially reducing its visibility and impact to neighboring properties; and
- c. That the use, a utility scale solar energy system, will be compatible with adjoining development and the character of the neighborhood where it is located, to wit: the neighborhood the project is located in is zoned rural residential which allows for such uses pursuant to special use permit and site plan approval. The rural residential zone generally consists of large lots with single family homes and/or large farming operations, vacant areas, or woods. The character of the neighborhood will not be affected since the project has been designed to substantially minimize and obscure the solar panels from view of neighboring properties and public highways; and
- d. That the use, a utility scale solar energy system, provides adequate screening to preserve the character of the neighborhood, to wit: the project is located on a lot with existing hedges and vegetation surrounding the panel site and applicant is providing additional screening and vegetation to obscure sight lines of the system; and
- e. That the use, a utility scale solar energy system, provides adequate off-street and loading and the special use will not substantially interfere with traffic on abutting streets, to wit: while the project will cause an increase in traffic during construction that impact is not expected to be substantial and will be limited in time to the period of construction only. Once completed, the nature of the project does not require the presence of employees or other staff beyond periods of required maintenance; and

Before approving the resolution Broderick read the following conditions into the record:

BE IT FURTHER RESOLVED that the Site Plan Approval and Special Use Permit for operation of a utility scale solar energy system at 4616 Townline Road, Lewiston, New York is granted, with the following conditions:

- 1) Submission of a fully funded decommissioning bond, with decommissioning plan, in substance and form acceptable to the Attorney for the Town and the Town Engineer, prior to issuance of a building permit.
- 2) Continued compliance with all requirements of Article XXVIII of the Town Code (Solar Energy Systems), as amended.
- 3) A PILOT agreement with the Town of Lewiston must be agreed to and fully executed prior to the issuance of a building permit.
- 4) Solar energy system to be constructed and operated in accordance with the New York Department of Agriculture & Markets: Guidelines for Agricultural Mitigation for Solar Energy Projects.
- 5) Landscape buffering to provide for ten-foot trees in the screening area along the South and East boarder of the project, as opposed to the 6-foot-high trees which were submitted by this applicant in their plans.

Geiben requested the addition of the ground cover being bee friendly. This was a condition of the Environmental Commission.

Geiben MOVED to approve as read for the Site Plan and Special Use Permit for the Utility Scale Solar Energy System – Saturn Power - 4616 Townline Road, Seconded by Myers and Carried 5 – 0.

NEW BUSINESS Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Broderick read the following Proclamation into the record:

International Overdose Awareness Day Proclamation

WHEREAS, International Overdose Awareness Day is recognized globally on August 31 to raise awareness about the risks of overdosing, honor the individuals whose lives have been lost from overdosing and acknowledge the grief felt by family, friends, and communities; and

WHEREAS: Overdose Awareness Day aims to publicly challenge the stigma associated with substance use disorders and overdosing; and

WHEREAS: 1,730 New Yorkers died from a drug overdose in 2019 according to the New York State Health Statistics; and

WHEREAS: Every person deserves our best efforts to prevent injury and death from overdose, and it is imperative to support overdose prevention policies and projects to help make sure everyone understands overdose is a social issue, which impacts the victim, families, friends, and communities;

WHEREAS: In recognition of Overdose Awareness Day, flags will be flown at half-mast to recognize and honor the victims, families, friends, and communities, effected by overdose.

NOW, THEREFORE BE IT RESOLVED, Town of Lewiston does hereby proclaim, August 31 as OVERDOSE AWARENESS DAY.

Engineering

There is still no date for the completion of the Water Project. CSX has not given a date when flagmen are available. Everything else is pretty-well wrapped up and restored.

Kiwanis Park – the new tennis court should be complete this week. The existing courts have been striped but nets need to be installed.

Broderick updated the Board on the out-fall building. Masters, Zimmerman, Ritter, Trane and Broderick have been working on getting this done.

Broderick asked Lannon to quote an engineer design and put it out to bid. The cost for the engineer design and bid is \$27,000. Masters and Zimmerman will oversight the project. Monies have been moved from the Fund Balance into both Parks and SS1.

Morreale MOVED to authorize GHD to go out to bid for the repair of the Outfall Building, Seconded by Jacoby and Carried 5 – 0.

Finance - Budget Transfer - Agnello requests Board approval.

Geiben MOVED the following transfers: Transfer \$1,901.00 from the A-Fund Insurance A00-1910-0400-0000, to cover the purchase of new seal decals and seal sign in the Main Meeting Room, with \$19.00 to Assessor Equipment - A00-1355-0200-0000, \$59.00 to Clerk Equipment - A00-1410-0200-0000, \$1,685.00 to Building Equipment - A00-1620-0200-0000, \$28.00 to Dog Control Equipment - A00-3510-0200-0000, and \$110.00 to Senior Center Equipment A00-7630-0200-0000, Seconded by Jacoby and Carried 5 – 0.

Geiben MOVED to approve the following transfers, Seconded by Jacoby; Transfer \$576.00 from B Fund Insurance - B00-1910-0400-0000 and \$38.00 from B Fund Workers Compensation - B00-9040-0800-0000 to cover the purchase of new seal decals for the departments, with \$119.00 to Safety Equipment - B00-3620-0200-0000 and \$495.00 to Parks Equipment - B00-7110-0200-0000,

Transfer \$1,237.00 from Insurance - DB0-1910-0400-0000, to cover the purchase of new seal decals for the department, to Highway Machinery Equipment - DB0-5130-0200-0000

Transfer \$280.00 from Insurance - SS2-1910-0400-0000, to cover the purchase of new seal decals, to Master Sewer Equipment - SS2-8110-0200-0000

Transfer \$743.00 from Insurance - SW1-1910-0400-0000, to cover the purchase of new seal decals, to Water Equipment - SW1-8340-0200-0000

Transfer \$1.00 from Fire Protection Workers Compensation - SF0-9040-0800-0000, to cover the .01 rounding for the 2% Exempt Fire Allocation payment, to Fire Protection Insurance - SF0-1910-0400-0000.

Transfer \$372.00 from A Fund Insurance - A00-1910-0400-0000, to cover 2020 AUD submission and 2013 Bond Refunding, to Professional Report Fees - A00-1220-0401-0000

Transfer \$2,144,000.00 from Serial Bond Proceeds - SS1-1000-5710-0000, to align the 2021 budgets with the approved 2013 Bond Refunding payment and professional fees, with \$2,130,600.00 to Serial Bonds Principal - SS1-9710-0600-0000, and \$13,400.00 to Sewer Administration Contractual - SS1-8110-0400-0000.

Transfer \$288,000.00 from Serial Bond Proceeds - SS3-1000-5710-0000, to align the 2021 budgets with the approved 2013 Bond Refunding payment and professional fees, with \$286,200.00 to Serial Bonds Principal - SS3-9710-0600-0000, and \$1,800.00 to South Sewer Administration Contractual - SS3-8110-0400-0000.

Transfer \$768,000.00 from Serial Bond Proceeds - SW1-1000-5710-0000, to align the 2021 budgets with the approved 2013 Bond Refunding payment and professional fees, with \$763,200.00 to Serial Bonds Principal - SW1-9710-0600-0000, and \$4,800.00 to Water Administration Contractual - SW1-8310-0400-0000.

Carried 5 – 0.

ARPA Coronavirus Local Fiscal Recovery Fund

Agnello notified the Board that on July 22, 2021, the Town received its first-half of the American Rescue Plan Act (ARPA) funding, in the amount of \$672,074.56. The second-half is scheduled to be released Summer – 2022. Agnello reminded the Board the Town is considered a “non-entitlement unit” (NEU) which is based upon population and funding is released from the State.

Investment Report

The Town had an investment mature on July 8th, and the Town earned \$227.50 in interest. The Town evaluated the opportunity to make an additional investment, did, and will earn \$343.00 in interest.

Broderick spoke about the rain/flooding episode last week. Johnathan Shultz reached out to all municipalities, residents, communities for any damage that occurred. At this time, any reporting of water damage and/or flooding is for statistical purposes only. There is no County money to be disbursed.

COUNCILMAN GEIBEN

Sanborn Park Playground approval – Greenway

Geiben is requesting the Board approve the bid for Sanborn Park Play Structure to GameTime, in the amount of \$90,526.05. Bid includes everything except demolition and removal. Dashineau said Sanborn Park should be done by end of summer and Pletcher Park into the fall.

Morreale MOVED to accept the bid from GameTime in the amount of \$90,526.05 and authorize the Supervisor to sign, Seconded by Myers and Carried 5 – 0.

Geiben said Recreation programs are going in full swing. The parks are very active.

COUNCILMAN JACOBY

Bicentennial Update

Jacoby said the Committee has scheduled two fundraisers, a Chiavetta's BBQ for October 9th and a Pork Dinner at Sanborn Farm Museum on September 25th.

The Committee would like to request the use of the Town Hall parking lot. Bax said it is a public parking lot so there shouldn't be a problem. Bax asks to be updated.

Jacoby MOVED to allow the Bicentennial Committee to sponsor a Chiavetta's BBQ fundraiser in the Town Hall parking lot, Seconded by Morreale and Carried 5 – 0.

Masters requests the Committee submit a sketch of the event and give to Fire Inspector Martin.

Geiben asked Broderick if photo-copies can be made at Town Hall. Broderick agreed.

The Bicentennial Committee will be selling a commencement coin.

Jacoby attended the first night of the Lewiston Police Dept. Explorer Program. The instructors are great. This is a good thing for the young kids.

COUNCILMAN MORREALE

Morreale MOVED to forgive sewer fees for the following: Muzzi – Sweethome Road - \$30.92; Pietrangeli– Fuller Place - \$109.21; Suess – Dana Drive - \$147.23; Swift – Lower River Road - \$40.90; Wentland – County Club Trail - \$55.21, Seconded by Geiben and Carried 5 – 0.

Site Plan / Special Use Permit – Thompson - Solar Array

The Planning Board has reviewed a Site Plan / Special Use Permit for Thompson – Ridge Road for a solar array. The Board now needs to hold a public hearing on the application.

Morreale MOVED to schedule a Public Hearing for Site Plan/Special Use Permit - Thompson – Ridge Road – Solar array on August 23, 2021 at 6 pm, Seconded by Geiben and Carried 5 – 0.

COUNCILMAN MYERS

5-G Proposed Law

The Town is looking to develop a new law to ensure the Town can effectively regulate the installation of new small cell technology for 5-G within the Town. A new law will be necessary because New York and Federal Law under the FCC, authorizes proprietors to put up these types of facilities. A law would ensure the Town has some say in how and where they will be constructed.

The Law will create a permitting process, by where the applicant would submit proposals for review. Pole height, aesthetics, camouflage, permitting fee, annual fee will also be included.

Myers and Bax have reviewed several surrounding municipalities to bring the best of what they have together to implement in Lewiston.

Morreale would like to reach out to the residents on Lower River Road, letting them know they can and should cut the grass along the new water project.

RESIDENTS STATEMENTS – No one wished to speak

Geiben MOVED to adjourn the meeting, Seconded by Jacoby and Carried 5 – 0. (7:50 pm)