

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax, Geiben, Jacoby and Morreale; Finance Director Agnello; Attorney T Seaman; Highway Superintendent Trane; WWTP Chief Opt. Ritter; Water Foreman Zahno; Police Chief Previte; 1 Press; 3 Residents and Clerk Donna Garfinkel

Supervisor opened the meeting with the Pledge to the Flag followed by a moment of silent reflection.

**PUBLIC HEARING – SPECIAL USE PERMIT & SITE PLAN REVIEW**  
Piva/Borrego Solar – Williams Road

Clerk read Public Hearing notice into the record:

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Town Board, Niagara County, New York, on the 9th day of September, 2019, commencing at 6:00 P.M., at the Town Hall, 1375 Ridge Road, Lewiston, New York, to hear and consider the following property and property owner/applicant:

OWNER/APPLICANT: Richard and Adrienne Piva/Borrego Solar  
PROPERTY LOCATION: 4352 Williams Road  
Ransomville, NY 14131  
(Tax Map No. 75.00-1-25)  
Niagara County, New York

TO CONSIDER APPLICATION FOR A SPECIAL USE PERMIT AND SITE PLAN REVIEW for a ground mounted utility grade solar energy system on said premises.

All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing. A full copy of the application is available for review at the Town of Lewiston Building Inspector's office during normal business hours.

Dated: August 26, 2019

Steve Long and Lindsey McEntire, Borrego Solar and Mark Kenward, Erdman Anthony in attendance.

Supervisor invited residents to speak.

Long gave a brief overview of the project.

The proposed project is to construct and operate a 7.2 mega watt dc, 4 mega watt ac ground mounted community solar energy system. The site is located on the west side of Williams Road, approximately 2,250 feet north of Swann Road. Access to the area is off Williams Road by way of a 20-foot wide crushed stone surface driveway. This property was used as active farmland.

The site encompasses approximately 97.6 acres. The subject parcel has 1,100-foot frontage on Williams Road and is 3,980-feet deep. The project itself will encompass approximate 28.4 acres of the eastern portion, nearest Williams Road. 17.62 acres within the fenced solar area and .93 acres of the access driveway from Williams Road and 4.95 acres of tree clearing along the outside of the solar site itself.

Poles and aerial electric wires needed for connection to National Grid extend 200-feet into the site off Williams Road. Tree clearing is to the South of the panels. This is necessary so the panels are not shaded from the sun.

The proposed site layout is designed and laid out in accordance with Town of Lewiston Code Section 360-220. These requirements include: Minimum lot of 5 acres and maximum of 100 acres. Minimum front setback 200-feet, proposed setback is 536-feet. Minimum side setback 100-feet, proposed setback is 108-feet. Minimum rear setback 100-feet, proposed setback is 1,828-feet. Maximum height 20-feet from ground level, proposed height is 9-feet.

Upon completion, the site area within the fence will be planted with meadow grass and the remainder of the site, west of the proposal will remain agricultural use.

During construction the project will generate approximately 50 vehicle trips per day, 25 arriving and 25 exiting. This number includes construction related deliveries and employees.

Once the project is in operation, it will generate no disreputable noise to neighbors, no adverse glare, no traffic, and there is no nighttime site lighting proposed.

Major activity on the property will be mowing at least two-times per year and an occasional visit by electrical service technicians.

Jacoby asked if there is any battery storage involved. McIntyre said no.

Morreale said the report reads the fire access road will be able to support a 7,500 pound load, and maintained throughout the projects life-span. Long said the road will be surfaced with a very coarse crushed stone.

Long said the thickness of the road will be dependent upon the results of the geotechnical investigation that will follow after this process is finished and a building permit is granted. The owner of the property is responsible for the maintenance of the road.

Geiben asked if there is a turn-around at the end. Long said a T-turn. Geiben questioned the vegetation on the north side of the project. Long said the existing vegetation will be allowed to continue to grow. The area to be mowed will be between the vegetation and the fence line.

Geiben feels if Mother Nature decides to have the vegetation/trees not survive there should be a way to have that be put back as a buffer.

Long suggested, with this being a Special Use Permit, and is periodically renewed, when its renewed it could be put in as a condition or new condition.

The application mentioned there being debris left on the property. Geiben questioned if this has been addressed. Rich Piva, owner of the property is responsible for this. The clean-up is a prerequisite of the Planning Board.

**Geiben MOVED to Close the Public Hearing, Seconded by Jacoby and Carried 5 – 0.** (6:17 pm)

PUBLIC HEARING – LOCAL LAW AMENDMENT - Chapter 30 – “Towers”

Clerk read Public Hearing Notice into the record:

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Town Board, Niagara County, New York, on the 9th day of September, 2019, commencing at 6:00 P.M., at the Town Hall, 1375 Ridge Road, Lewiston, New York, to hear and consider a Local Law amending the Ch. 30, “Towers” to permit the construction of lattice towers.

All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing. A full text of the proposed local law is available for review at the Town of Lewiston Clerk’s office during normal business hours.

Dated: August 26, 2019

Supervisor invited residents to speak. No one wished to speak.

**Bax MOVED to close the Public Hearing, Seconded by Geiben and Carried 5 – 0.** (6:18 pm)

AGENDA APPROVAL

Agenda Additions: Broderick – Executive Session - Contract negotiations, consultation with Council and possible litigation. Geiben – Department of Army notice.

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

#### DEPARTMENT HEAD STATEMENTS

##### Town Clerk Garfinkel

At the August 26<sup>th</sup> Board meeting the Board approved Auctions International bid amounts for the Police Dept. Auctions International notified the Town the high bidder of item #0111, \$380, has withdrawn and second bidder is offering \$310.

**Jacoby MOVED to accept the bid of \$310 for item #0111, Seconded by Geiben and Carried 5 – 0.**

The high bidder and second high bidder are not interested in item #0118. Does the Town want to relist? Previte does not care. The item could be scraped.

**Morreale MOVED to scrap item #0118, Seconded by Jacoby and Carried 5 – 0.**

New York State DEC is offering a matching grant and Garfinkel would like approval to move forward with this to purchase recycling bins. The Town purchases bins at least once a year. The Town could purchase possibly 600 bins for the cost of 300. There is money in the budget.

**Morreale MOVED to approve to match the DEC Grant for the cost of recycling bins, Seconded by Geiben and Carried 5 – 0.**

The Town has been discussing the purchase of cart-based recycling totes. They can be used too.

Clerk asked to notify the Village of Lewiston of this grant.

##### Police Chief Previte

New York State mandates the taking of fingerprints be done electronically. The Lewiston Police machine is failing. This was discussed at the Police 2020 budget work session. If the machine fails before the end of the year, the Board needs to know there may be this expense.

Geiben suggested reaching out to our Senators or Assemblymen for dollars.

Officer Brandon Hall has been assigned the SRO at Niagara Wheatfield. Officer Rougeux has been the SRO for the past two years, but will now be on patrol.

Finance Officer Agnello – Budget revision requests.

First request - transfer \$1,764 to Other General Government Support - A00-1989-0400-0000 from A Fund Contingency - A00-1990-0400-0000 to cover newly mandated NYS harassment training expenses for all Town employees.

**Morreale MOVED to transfer \$1,764 to Other General Government Support - A00-1989-0400-0000 from A Fund Contingency - A00-1990-0400-0000, Seconded by Jacoby and Carried 5 – 0.**

Second request – transfer \$1,500 to Traffic Control Contractual - A00-3310-0400-0000 from Highway Administrative Contractual - A00-5010-0400-0000, to cover striping of Bridgeman and Dickersonville Roads.

**Bax MOVED to transfer \$1,500 to Traffic Control Contractual - A00-3310-0400-0000 from Highway Administrative Contractual - A00-5010-0400-0000, Seconded by Morreale and Carried 5 – 0.**

Agnello updated the Board on the 2020 Budget schedule. Department heads submit requests during September. Tentative Budget then drafted by Agnello. The Tentative Budget is given to the Town Clerk by September 30<sup>th</sup>. The Tentative Budget will be presented to the Board on October 2, 2019, 4:00 pm. Meetings with the Board and Department Heads will take place on October 17<sup>th</sup>. October 28<sup>th</sup> Board meeting, the Preliminary Budget, with changes, will be presented to the Board. A Public Hearing on the Budget will be November 7, 2019, with Final Budget approval being November 14, 2019. The State mandates the Final Budget be approved no later than November 20, 2019.

#### WWTP Chief Opt. Ritter

Ritter previously discussed with the Board the changing of the WWTP Clerk's title. Ritter is requesting to change Typist to Clerical 2. The position has evolved into much more responsibility and accountability than previous years. The Board needs to set the pay and make the promotion. The wage was discussed in Executive Session.

Jacoby asked Ritter if the Clerk is currently doing this level of work. Ritter said without a doubt.

**Geiben MOVED to change the title for the Clerk at the WWTP to Clerical 2, at the rate of \$19.10/hour, Seconded by Morreale and Carried 5 – 0.**

**Bax MOVED to appoint Cheryl Milicia to the Clerical 2 position at the WWTP, Seconded by Jacoby and Carried 5 – 0.**

#### Highway Superintendent Trane

Trane will pipe the ditch in front of the WWTP, and requests the installation fee of \$892.50 be waived.

**Bax MOVED to waive the ditch piping installation fee of \$892.50, Seconded by Jacoby and Carried 5 – 0.**

#### Recreation Director Dashineau

Dashineau distributed an update report.

The Parks Dept. has a new Facebook page. All programs will be put on the page.

Geiben explained a late voucher situation from Bureau of Fire Prevention. The Town policy is that mileage vouchers need to be submitted within 60 days. A voucher was received past the time. Geiben recommends paying it then notifying the Dept. they must follow policy.

ABSTRACT APPROVAL – Geiben

**Geiben MOVED to approve the Regular Abstract of claims numbered 2388 to 2520 and recommend payment in the amount of \$171,558.35 plus a Post-audit of \$6,704.07, Seconded by Morreale and Carried 5 – 0.**

Broderick asked Seaman, in regards to the late voucher, should a motion be made.

**Jacoby MOVED to approve placing the Fire Bureau voucher on the September 23<sup>rd</sup> abstract, noting it is in violation of Town Policy, Seconded by Bax**

Broderick said the policy was put into place, and made clear that it is because of budgeting issues. Departments need to be reminded of this policy, and in the future they will not be paid.

**Carried 4 – 1** (Broderick)

APPROVAL OF MINUTES - 8/26/2019 – Regular Town Board

**Geiben MOVED to approve the Regular Town Board meeting minutes of 8/26/2019, Seconded by Bax and Carried 5 – 0.**

#### OLD BUSINESS

NC Public Safety Communication - Proposed Lease Agreement – No Action

Property Maintenance – Cherry Lane / Lower River Rd – Dashineau received 2 verbal quotes at the low end of the procurement policy. Dashineau requests permission to move forward. Seaman said that's fine; make the approval subject to Attorney approval of the documentation.

**Morreale MOVED to accept moving forward with the verbal quotes, subject to Attorney approval of the documentation, Seconded by Jacoby and Carried 5 – 0.**

Highway Fees – No Action

Review and Approval of Greenway Application – Sanborn Park Bathrooms – No Action

SEWER REFUND – Creek Road

Bax said this requests fits within the Town Sewer Use Agreement.

**Bax MOVED to approve a sewer credit of \$68.87 for 4074 Creek Road, Seconded by Geiben and Carried 5 – 0.**

SEWER REQUEST – NRB Properties, LLC – No Action - Tabled

Geiben spoke of a letter received from Jason A. Toth, Lieutenant Colonel Dept. of Army regarding the Niagara Falls Storage Site. It reads: "Pleased to announce that Mr. R.D. James, Assistant Secretary of the Army approved the record of decision for the Interim Waste Containment Structure (IWCS) Operable Unit of the Niagara Falls Storage Site, which is located in Lewiston, New York. The selected remedy is excavation, partial treatment and off-site disposal of the entire contents of the IWCS". This is good news for the Town. The letter didn't mention when funding will be in place and what route will be used to remove it.

#### RE-APPOINTMENT - ASSESSOR

Linda Johnson, Town Assessor submitted a request, along with her education, to be reappointed the sole Assessor for the Town and Village of Lewiston for a term from September 30, 2019 to September 30, 2025.

**Broderick MOVED to reappoint Linda Johnson as the Town Assessor, Seconded by Geiben and Carried 5 – 0.**

Jacoby said as most are aware being the Town Assessor is pretty much a thankless job at times, so the Town is lucky to have Linda.

#### JUNIOR ACCOUNTANT – PART TIME UPDATE

Agnello informed the Board that Elizabeth Geise accepted a fulltime job and her last day is September 13<sup>th</sup>. Agnello intends to fill the position as quickly as possible. Broderick said Geise was fantastic.

#### WWTP EMPLOYEE - SCHOOL REQUIREMENT

Ritter advised the Board that Buffalo State College no longer conducts the necessary schooling for WWTP Operators; therefore trainees go to Morrisville, NY. This is a 4-week training course requiring Trainees to stay a week at a time. This will be funded in 2020.

#### RESIDENTS COMMENTS

Smith, Tom – Lewiston – Broderick reminded Smith the Town is in litigation with him, so what Smith speaks about can have nothing to do with that litigation.

Smith said the Town can't talk about it, but he can. Broderick said not in this public forum, in the Town Hall.

Smith said the Board knows who he is and has known him his entire life. Smith said he has been lied about in this Town. The Police have it in their computer that Smith is a danger. When they show up at his house they are ready to pull out their guns, which happened last night during a custody issue at Smiths home.

What it comes down to is, Chief Previte is a liar and Smith can proof it. Broderick told Smith not to make accusations; there is open litigation against the Town and the Town Police Dept.

Smith was told to tell the Town Board first before he went anywhere else with it, because the Board is Previte's boss.

Hurtgam, Kyle – Morgan Drive – Hurtgam distributed two packets regarding a water bill issue. Hurtgam did not receive his August 1<sup>st</sup> water bill. A pool was installed so Hurtgam thought someone might be checking why it may be too high. Hurtgam included canceled checks for the last 18 months of water payments. Hurtgam has always paid his water bill on time. Hurtgam is requesting to pay the discounted/normal water bill, not the late fee bill.

Broderick said he would vote against it, there is a policy. Bax said this has been addressed with other residents. Once the Board does for one it will snowball.

Jacoby asked if this large amount was when the pool was installed. Hurtgam said yes, the pool was purchased in June. The amount of sewer credit would need to be figured out first then address the late fee. Broderick suggests Ritter determine if the sewer reduction fits the policy.

Ritter was asked if he would consider the late fee on this. Ritter said yes.

Morreale said the Board has not forgiven anyone else the late fee.

No action will be taken. Hurtgam told to pay bill in full and any refund will be on the next bill.

Broderick said the second request for sewer refund for pool fill needs to be reviewed by Ritter before the Board can approve.

**Geiben MOVED to enter into Executive Session for the purpose of consultation with Attorney, WWTP Union Contract discussion and discussion of potential litigation, Seconded by Bax and Carried 5 – 0. (7:27)**

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax, Geiben, Jacoby and Morreale; Finance Director Agnello; Attorney T Seaman; Highway Superintendent Trane; Deputy Water Foreman Zahno

**Bax MOVED to exit the Executive Session, Seconded by Morreale and Carried 5 – 0. (8:00 pm)**

No Action taken.

**Bax MOVED to adjourn the meeting, Seconded by Morreale and Carried 5 – 0. (8:00 pm)**

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk