

TOWN BOARD MEETING

JULY 22, 2024

6:00 pm

PRESENT: Supervisor S. Broderick; Councilmembers J. Jacoby, R. Morreale (ZOOM), J. Myers and S. Waechter; Deputy Supervisor Conrad; Atty. A. Bax; Finance Director J. Agnello; Bld. Insp. T. Masters; Sr. Center Coordinator M. Olick; WWTP Chief Opt. J. Ritter; Highway Superintendent M. Zahno; Water Foreman D. Zahno; Recreation Dir. T. Smith; Police Chief Previte; Eng. R. Lannon; 32 Residents, 2 Press (1-ZOOM) and Clerk D. Garfinkel

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

PUBLIC HEARING – LOCAL LAW 2024 – 3 SOLAR FARM

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston, Niagara County, New York, on the 22nd day of July, 2024 commencing at 6:00 p.m. at the Town Hall, 1375 Ridge Rd, Lewiston, NY, on the adoption of a “A Local Law Amending the Zoning for Solar Energy Law.” Said law is intended to modify and update the Town’s current Zoning for Solar Energy Law.

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.

By Order of the TOWN OF LEWISTON TOWN BOARD June 24, 2024

Supervisor asked if anyone wished to speak. No one did.

Jacoby MOVED to close the Public Hearing for Local Law 2024 – 3 – Solar Farm, Seconded by Myers and Carried 4 – 0.

AGENDA APPROVAL

Agenda Additions: Broderick – Assessors Office hire

Waechter MOVED to approve the agenda as amended, Seconded by Myers and Carried 4 – 0.

RESIDENTS STATEMENTS

Broderick said there is a large number of residents wishing to speak so it will be limited to 4-minutes. Bax wants to remind residents this is an opportunity for the public to provide comment to the Board, not necessarily to ask questions and expect an answer. Those wanting responses, please provide the Town Clerk with your contact information.

Elias, Beth Ann – Morgan Drive - Elias along with three other residents have formed a committee that represents dozens of families who have been recently flooded with sewage and water in their basements and yards.

They are here tonight to address the Town issues that are affecting their health and safety, family budgets, property values and their way of life. Many are unable to sleep when the forecast calls for heavy rain or thunderstorms, because they are on constant watch.

The sewer infrastructure has collapsed, it has taken decades to deteriorate. Over the years, Town leaders have stood back and watched.

There are many serious problems, not the least of which is infiltration. After a heavy rain, the WPCC is hit with millions of gallons of storm water that has made its way into the sanitary sewers.

The Board has been told this for 30-years, and yet have done little or nothing to fix the problem. Many times, the Plant has fire hoses pouring raw sewage down the storm pipe that goes to the Niagara River. The stormwater creates so much pressure in the sewer line, the sewage is then pushed back into the basements.

All Board members are invited to come over, put on boots and rubber gloves, bring Clorox and help bail them out.

“The back flow preventers will pacify” is simply wrong. It keeps the contaminated water from meeting the drinking water. The valve is supposed to keep the sewage from coming in the home. The Laurri’s have a backflow preventer in their yard and they have been flooded.

Elais feels the maintenance of the backflow should not be put on the residents to take care of. It is not their problem, they didn’t start this problem, it’s been passed along. The backflow also prevents the flow of sewage in both directions. None of us are interested in stopping the use of toilets, showers and dishwashers for two days.

At the risk of the group doing the Boards job, they have a list of suggestions.

The Town needs to institute a program to replace and repair the worst offending sewer lines. Start cleaning and jetting the pipes that bottleneck. Check all drainage culverts and pipes visually and with cameras, for blockages and remedy it. Address the worst affected areas first. Be proactive and start using sewer pump trucks before the flooding occurs. Institute an immediate moratorium on any new residential or commercial building construction.

Town should hire an independent engineering firm to expedite an investigation for a plan to be implemented by the Town. The Town can renegotiate contracts with other municipalities that use the plant. That way everyone is paying their fair share, along with penalties for overages. If the Village of Lewiston is a major source of infiltration, then the Village should be held responsible for fixing its sewer lines.

Start discussions for/of financial options. Use the \$800,000 the Town receives from the Power Authority, the \$1.5 million received from APRA for capital projects.

Elias suggests the Town set up a fund to reimburse any resident that can prove damages, along with documentations and bills.

The group loves Lewiston and wants to live in a clean, safe and healthy community. We shouldn't have to beg Community leaders, our elected leaders, who promised to look out for our wellbeing, to do the job they were elected to do.

Walmsley-Strombeck, Margi – Morgan Drive – Strombeck thanks the Board for their time. She understands from a comment made that she will leave her questions with her contact information.

The group is looking for answers to the following questions:

1. Have you discharged raw sewage, either or both into the storm drains or directly into the Lower Niagara River? If so, when?
2. Have you been in contact with the Town Engineer? Have he/they looked into the problem? If so, have they come up with a solution? Where can we find the report?
3. Do you have a schedule for maintenance of both drainage and sewer pipes? If so, is the public able to view?
4. Do you have any plans in writing to replace or repair sewer lines at this time?
5. You received money for the I&I plan for each new development, and we have had a lot. Much has been received in the past 5 years and what has it been used for? Is there a record available for the public to view?

Elias, Mark – Morgan Drive – Elias thanked the Board for their time.

The group is looking for answers to the following questions:

1. You've said you have made improvements to the WWTP in the past 15-years. What exactly have you done other than upgrade the electrical to help the plant? Are there documents available for view?
2. Where are the pumping stations located throughout the Town?
3. Is there a plan for temporary storage during high flow events?
4. What operational and or equipment changes will be made to the Lewiston sewer and storm water systems?
5. Will you implement a program for residents to be reimbursed, that have been financially impacted by this issue.

Elias would like to request the Board implement a 2-year minimum moratorium on building, both commercial and residential, in the Town of Lewiston. He looks forward to each Board members individual answers next month.

Laurri, Mia – Morgan Drive – Laurri is here to speak on behalf of herself and husband. They have resided in their home for 34-years and 29 of those years there has been flooding.

In spite of capped and sealed floor drains, second back-up sump pump, regularly cleaning and maintaining of gutters, diverted downspouts to the group 15-feet from the foundation, thousands of dollars for yard drainage that leads directly into storm sewer near the street and installed a check valve on sanitary sewer line that exits house, they have had water come through where the wall meets the floor, overwhelmed and burned out the sump pump, and resulted in the loss of multiple washers, dryers over the years, as well as luggage, clothes and other items.

Davis, Hannah – Townline Road – Davis is here to give further information regarding the haunted hay ride that is next to her property. Davis distributed a packet containing Agriculture and Markets Law §300, comments from her conversation with the State, copies of flyers advertising the event, Facebook posts, and pictures of the property. Davis said King is not Ag. and Tourism, his whole property is basically an amusement park. The Facebook page posts are saying they are hiring, he has basically torn it up.

Davis has been in contact with Masters and Broderick numerous times and thanks them for helping to clear up her questions.

Davis asked, if in the process of updating the Codes, would it have helped with the process of closing him down or not even begin? Is there any progress on the updating? This has to stop; it is ruining the neighborhood. None of the neighbors will come to the meetings.

Broderick thanked all for speaking. The Board is aware there is a problem in several areas. Broderick believes he has visited just about all the places. The Town is looking into ways to improve the Town drainage.

If anyone wants to contact Ritter, Masters, Broderick or the Highway Dept., please do.

DEPARTMENT HEAD STATEMENT

Police Chief Frank Previte

Previte is asking for Board approval for purchases under the NYS Law Enforcement Technology Grant. Previte reviewed all of these with Attorney Bax.

5 - Dell 5430 Computers w/docks – Contract #PM20820 at a cost of \$16,093.60.

Jacoby MOVED to approve the purchase of 5 - Dell 5430 Computers w/docks – Contract #PM20820 at a cost of \$16,093.60, Seconded by Myers and Carried 4 – 0.

Sole Source / Proprietary – Grant

3 – Axon Interview Rooms (2 interview/1 booking room) at \$65,951.53 with Axon Tagging for Body Cameras at \$18,498.00 and 1 – Bosch CDR 900 at \$5,750.00

Jacoby MOVED to approve the purchases as presented by Chief Previte, Seconded by Myers

Broderick asked, these purchases are covered under the Law Enforcement Technology Grant, correct? Previte said yes.

Carried 4 – 0.

Previte received three (3) written quotes for a Drone and camera system. 1 – DJI Matrice 30T Drone at \$13,310.00 and 1 - Flock Flex LPR Camera System at \$3,500.00.

Jacoby MOVED to approve the purchases as presented by Chief Previte, Seconded by Myers

Again, Broderick asked these purchases are covered under the Law Enforcement Technology Grant? Previte said yes.

Waechter asked about the certification of the operators of the Drone. Previte said the cost for that is included. It will be a couple officers on the force.

Carried 4 – 0.

Highway Superintendent Mitch Zahno – Truck Purchase

Zahno distributed the OGS bids received for two (2) Ford XL-250. Funds are in the 2024 budget.

Bids received: Van Bortel Ford, Inc. - \$123,321.16; Neilsen Ford - \$134,363.34; DeLacy Ford - \$154,910.40.

Zahno is requesting Van Bortel Ford Inc. be awarded the bid.

Waechter MOVED to award the bid for two (2) Ford XL-250 to Van Bortel Ford, Inc. - \$123,321.16, Seconded by Myers and Carried 4 – 0.

Zahno is looking to replace the Town's 20-year-old snowplow. It will cost approximately \$300,000. The money was moved from unassigned to assigned within the Highway Fund.

Ordering and actually getting the truck could take over a year.

Myers MOVED to authorize Highway Superintendent Zahno to pursue the purchase of a snowplow Truck, Seconded by Jacoby and Carried 4 – 0.

WWTP Chief Opt. Jeff Ritter

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Ritter would be very happy to talk to any homeowners that have problems with water/sewer coming in their homes. There is a lot of discrepancy between storm water and sanitary sewer. They are not supposed to be together in any way, shape or form.

It is very disheartening to have basements flooding. There is not a Waste Water Treatment Plant in the State of New York that doesn't bypass during a rain event. Ritter asked all to contact him directly.

Sr. Center Coordinator Melinda Olick

The Center is happy to announce that Citizen Preparedness Corps will be at the Center on August 20th. This is to help teach residents to prepare and respond to any type of disaster.

Broderick said he knows he says this every meeting, but the Center has never been this busy. Olick is doing a great job.

Recreation Director Tim Smith

Baseball/softball season is wrapping up in the next two weeks. All day camps are going strong and full every day. Pickleball, corn hole league and yoga are happening. They are all free.

Recreation Dept. will be holding a Town of Lewiston Luau on August 24th, 11 am – 2 pm.

APPROVAL OF MEETING MINUTES

Regular Town Board Meeting Minutes - May 30, 2024 and June 24, 2024

Jacoby MOVED to approve Regular Town Board meeting minutes of 5/30/2024 and 6/24/2024, Seconded by Waechter and Carried 4 – 0.

AUDIT PAYMENT – Councilwoman Waechter

Waechter MOVED to approve the Regular Abstract of Claims – 24-01606 thru 24-01769 and recommends payment in the amount of \$698,975.16, Plus a Post Audit of \$0, Seconded by Myers and Carried 4 – 0.

Waechter MOVED to approve the Regular Abstract of Claims – 24-01770 thru 24-01939 and recommends payment in the amount of \$288,020.99, Plus a Post Audit of \$9,337.89, Seconded by Myers and Carried 4 – 0.

PENDING / OLD BUSINESS - None

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Town Assessor Retirement

Board members received a Retirement Notice from Town Assessor Linda Johnson. July 31, 2024 is her official retirement date. Johnson thanks the Board for the opportunity to serve the Town for the last 24 years.

Johnson will continue to work at an agreed upon compensation, with number of hours to ensure a successful transition for the Assessor's Department.

Jacoby MOVED to accept, with regret, Linda Johnson's retirement, effective July 31, 2024, Seconded by Waechter and Carried 4 – 0.

Assessor's Office Hire

Johnson requests the Board hire Nicholas Fiutko, starting July 29, 2024. Johnson has reviewed the Niagara County Assessor's and staff salary and requests his starting salary be \$50,000. Fiutko will be part of the Revaluation Project and Johnson will train and assist as needed.

Jacoby MOVED to hire Nicholas Fiutko as Acting Assessor effective July 29, 2024, at a salary of \$50,000, Seconded by Myers and Carried 4 – 0.

Broderick requests Johnson stay-on as a consultant at \$28/hr. three (3) to four (4) days a week, with hours and days to be determined based on the need of the Acting Assessor and the Reval Project schedule.

Waechter MOVED to have Linda Johnson stay-on as a Consultant at \$28/hr. three (3) to four (4) days a week with hours and days to be determined based on the need of the Acting Assessor, Seconded by Myers and Carried 4 – 0.

Assessment Review Board – Alternate Member Appointment

With the upcoming Reassessment in the Town, Johnson feels it would be smart to have an Alternate on the Assessment Review Board. Johnson requests Karl Frankovitch, a local Attorney.

Myers MOVED to appoint Karl Frankovitch as an Alternate on the Assessment Review Board, Seconded by Jacoby and Carried 4 – 0.

Environmental Commission

The Commission is another form of government that certain project applicants are required to go through. The Board would like to abolish the Commission, put some current members on to a newly created Planning & Environmental Commission/Board. Any necessary Environmental review will be done by the new created Commission/Board.

A draft Local Law will be introduced at the August meeting.

Right of Entry – Niagara Falls Storage Site

The Department of Army has requested a Right Of Entry through the WWTP property. The purpose is for performing surveys and investigation, collecting samples and making test borings, and remediating radiological and chemical contamination of soils and ground water. Structures including, but not limited to, the right to store, move and remove equipment and supplies; erect and remove temporary structures on the land; investigate and collect samples; construct, operate maintain, repair, replace, and remove groundwater monitoring wells, groundwater purification and injection systems, appurtenances thereto, and other devices for the monitoring and treatment of contamination in soil, air and water; and perform such other work as may be necessary and incident to implementation of the Formerly Utilized Sites Remedial Action Program for the life of the project. Upon completion of the project, USACE will notify the landowner of completion in writing ending all rights to the property for USACE.

Ritter said a subcontractor for the DOA has already put a sampler in the plant and they come twice a week to maintain and check the filters.

Jacoby MOVED to approve the Right of Entry for the Department of Army under the FUSRAP Project, Seconded by Myers and Carried 4 – 0.

Jacoby MOVED to authorize the Supervisor to sign, Seconded by Waechter and Carried 4 – 0.

Town / Village Joint Committee – Police Agreement

The Town and Village held a Joint meeting to discuss the Police Contract. The two have not met in many years. After the meeting it was decided to create a Committee to continue discussions.

Waechter MOVED to appoint John Jacoby, Steve Broderick and Town Attorney Bax to be on the Committee, representing the Town, Seconded by Myers and Carried 4 – 0.

Legal - Executive Session – Consult with Attorney at the end of meeting. No action will be taken.

Engineering

Oakhill Subdivision – Hillside Drive Drainage

Broderick talked to Bob Lannon regarding a drainage issue at Oakhill Subdivision. Several houses flooded at the base of Oakhill Drive and on Hillside Drive. There have been issues on Cliff Road and Orchard Drive.

Broderick, Masters and Lannon looked at plans dated 1993, for the Oakhill Subdivision. There was a design for engineered drainage. It went along the old railroad line, East toward Cliff then North to Ridge Road. None of this was done.

Broderick calls these sins of the past. The Town will move forward to make it right and correct the drainage. Lannon will engineer the drainage that was required by the plan of 1993, but wasn't done.

Lannon is to move forward with the design. A synopsis was submitted and the Town is waiting on the bid. This will help a lot of homes on Hillside, Cliff, Orchard and Ridge.

Finance - Budget Revisions

Agnello requests the following Budget Transfers:

Transfer \$5,385 from Insurance Recoveries - B00-1000-2680-0000, to Police Equipment - B00-3120-0200-0000, to cover replacement of equipment for Car #272 after accident.

Transfer \$3,784 from Insurance Recoveries - B00-1000-2680-0000 to Safety Inspection Contractual - B00-3620-0400-0000, to cover repairs to 2023 Ford.

Transfer \$4,200 from B-Fund Balance - B00-1000-0599-0000 to Parks Equipment - B00-7110-0200-0000, to cover replacement of two basketball hoops at Sanborn Park.

Transfer \$1,010 from Sewer Contractual - SS1-8130-0400-0000 to Sewer Administration Equipment - SS1-8110-0200-0000, to cover replacement of office computer.

Jacoby MOVED to approve the Budget Transfers as presented, Seconded by Waechter and Carried 4 – 0.

Jr. Accountant Hire

Agnello requests approval to hire a Junior Accountant, and asks the Board to hire Isaiah Milne.

Jacoby MOVED to hire Isaiah Milne as Junior Accountant, at \$23/hour starting July 29, 2024, for a 30-hour work week, Seconded by Myers and Carried 4 – 0.

Rescind budget transfer – Highway

At the Board meeting of June 24th, the Board approved two (2) transfers. 1.) Transfer \$100,000 from H-97 – Infrastructure to DB0-5110-0200-0000 – Highway, to pay for the replacement of pipe. 2.) Transfer \$50,000 from H-97 – Infrastructure to DB0-5130-0400-0000 - Highway Permanent Improvements for additional necessary paving. Agnello and Broderick have since decided to charge H-97 directly for these projects.

Jacoby MOVED to rescind the transfer of \$100,000 from H-97 to DB0-5110-0200-0000, and the transfer of \$50,000 from H-97 to DB0-5130-0400-0000, Seconded by Myers and Carried 4 – 0.

Drescher & Malecki, 2023 Audit Presentation

Erica Handley, CPA and Nicholas Patronik, CPA are present to give an overview of the Town's finances. Drescher performed a preliminary audit procedure.

Handley said the Town is responsible to maintain its financial records. Town management takes ultimate responsibility for the Financial Statements.

Auditor Communication letter is a requirement communication that is needed with every audit performed. This letter outlines the responsibility of Drescher & Malecki as the Town's Auditors. Drescher is responsible for developing tests and perform the audit, so that the numbers within the financial statements can be relied on.

Drescher looked for any significant changes in accounting policies, there were none. Independence is one of the most important things the Town would look for in an external audit. Everyone in the firm, whether they worked on the audit or not, has signed off as an independent of the Town.

Handley said there was full cooperation from all Town employees the firm came in contact with. It was a very smooth audit.

Financial Statement Update

Operations Trend – General Fund

This is a 5-year trend of the General Fund. This year the revenues exceeded the expenditures, resulting in an increase to the fund balance of \$154,000. Revenues had a slight increase compared to the prior year. The Town had the benefit of additional interest earning. The expenditures did increase. Last year there was a large transfer out of the General Fund into the Capital Fund.

The total Fund Balance for the last 5-years, with the 2023 balance being \$2.2 million.

Operations Trend – General – Town Outside Village Fund

The Town Outside Village Fund had a decrease in overall fund balance of about \$264,000. In 2022, the revenue was high due to the recognition of the American Rescue Plan.

Ending fund balance is \$2,560,000

Operations Trend – Highway Fund

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The revenue line increased about \$389,000, again due to favorable interest rates. There was a decrease in expenditures. 2022 had higher infrastructure costs.

Ending Fund balance is \$1.8 million

Operations Trend – Water District Fund

Total revenue increased by about \$214,000, due to water meter sales, water rate change and interest earnings. Expenditure did increase, due to interest rates on the debt in this fund.

Total fund balance increased \$255,000, to about \$2.1 million.

Operations Trend – Sewer District Fund

The revenues outspent the expenditures for an increase of about \$118,000. Interest earnings increased in this fund. There was a decrease in expenditures.

Drescher found no material weaknesses and no significant deficiencies, no compliance finding. No findings at all to report as a result of this audit.

Broderick and Agnello reviewed the report last week with Handley and Patronik. Broderick appreciates what Drescher & Malecki does for the Town.

Jacoby said Handley can come back at any time with news like this. Jacoby compliments both Agnello and Broderick for all the work that has been done.

Broderick said the sales tax has been healthy. The changing of banks also gives the Town interest, so this has help immensely.

COUNCILMAN JACOBY - Nothing to report

COUNCILMAN MORREALE - Excused

COUNCILMAN MYERS

The Sanborn Historical Society will hold their annual Farm Museum Festival this weekend.

COUNCILWOMAN WAECHTER

Waechter said this is the first year, in maybe 10-years, that she has heard a slew of kids in Kiwanis Park. Shout out to Smith for a great job.

RESIDENTS STATEMENTS

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Nicoletti, Mark – Oakhill Drive – Nicoletti is the President of the Oakhill Homeowners Association.

Nicoletti wants to applaud the Town's efforts on Hillside Drive. This is well over due. Nicoletti totally supports what is being done. As far as the Highway Dept. and Water Dept. employees working there, they are very courteous and helpful.

Nicoletti said the Oakhill Homeowners Association does not own, or have any part of that piece of property that is for sale. The Homeowner's Association is fully in favor of what is being done.

Broderick said if this was today, there wouldn't be a Certificate of Occupancy until that drainage was done. Someone dropped the ball, don't know who, but the Town can only move forward and correct it.

Nicoletti said the things done back then, the homeowners in Oakhill still live with today.

Elias, Beth Ann – Morgan Drive – Elias asked whose property is Oakhill? Broderick said it is private.

Elias then asked why the Town is not going after the developer? Broderick said he is deceased. Elias asked how that makes the Town responsible. Broderick said it is the responsible thing to do. The Town dropped the ball, back when it was being developed.

Elias asked Ritter about the backflow grant. Ritter said the Grant is from the Town. Elias has the understanding that it will cost between \$3,000 and \$5,000 to install, plus monthly maintenance.

Ritter told Elias he will talk with her any time.

Elias said, since all these storms the Board is scrambling and they are thankful. Elias asked the Board to please take into consideration their groups suggestions. Please and thank you.

Waechter MOVED to enter into Executive Session to consult with the Attorney, Seconded by Myers and Carried 4 – 0. (7:20 pm)

Jacoby MOVED to exit Executive Session, Seconded by Myers and Carried 4 – 0. (7:20 pm)

No Action was taken.

Myers MOVED to adjourn the meeting, Seconded by Jacoby and Carried 4 – 0.

Transcribed and respectfully submitted by:

Donna R. Garfinkel, Town Clerk