

May 6, 2009

Two Public Hearings and the regular monthly meeting of the Lockport Town Board were conducted at 7:30 p.m. on Wednesday, May 6, 2009, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith

Town Council members: Cheryl A. Antkowiak
Paul H. Pettit
Mark C. Crocker
Paul W. Siejak

Also present: Nancy A. Brooks, Town Clerk, Daniel E. Seaman, Town Attorney,
Judith Newbold, Deputy Town Clerk.

Following the Pledge of Allegiance, Supervisor Smith welcomed all those in attendance and opened the Public Hearings as follows:

PUBLIC HEARING: Increase and Improvement of Facilities of Sewer District No.3,
in the Town of Lockport, in the County of Niagara, New York
pursuant to Section 202-b of the Town Law.

At 7:30 P.M. (Prevailing Time) the Town Clerk stated that a public hearing had been called for this meeting at the Town Hall, 6560 Dysinger Road, Lockport, New York, to consider the increase and improvement of facilities of the Town of Lockport Sewer District No. 3 in the Town of Lockport, and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law. The Town Clerk read, in full, the notice calling said public hearing and presented affidavits showing that certified copies of said notice had been duly published and posted pursuant to the provisions of Article 12 of the Town Law.

The Town clerk reported that there were no pertinent communications received relative to this matter.

The Supervisor Smith stated that the hearing in said matter was now open and asked if there were any interested persons present who desired to be heard. No one spoke on the issue and the public hearing was closed.

PUBLIC HEARING: Increase and Improvement of Facilities of Water District No.3,
in the Town of Lockport, in the County of Niagara, New York
pursuant to Section 202-b of the Town Law.

At 7:30 P.M. (Prevailing Time) the Town Clerk stated that a public hearing had been called for this meeting at the Town Hall, 6560 Dysinger Road, Lockport, New York, to consider the increase and improvement of facilities of the Town of Lockport Water District No. 3 in the Town of Lockport, and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law. The Town Clerk read, in full, the notice calling said public hearing and presented affidavits showing that certified copies of said notice had been duly published and posted pursuant to the provisions of Article 12 of the Town Law.

The Town clerk reported that there were no pertinent communications received relative to this matter.

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1. PUBLIC COMMENTS – Supervisor Smith opened the floor for anyone who wished to address the Town board. The following persons spoke:

Mr. David Mongiello of 5099 Day Road spoke on the matter of the electronic sign at his auto repair shop business located on Robinson Road. He has been denied a variance to allow his digital sign to post messages at a rate not less than every ten minutes. Mr. Mongiello stated he believes that the Town Board does not understand his purpose for utilizing such a sign. He quoted the Buffalo newspaper and pointed out other businesses which are using electronic signs which he believes are also in violation of the Town's sign ordinance, but have not been denied use of such signs. He questioned why enforcement of the ordinance was selective by the Town Code Enforcement office. He also suggested that such ordinances are hurting small businesses such as his and that the Zoning ordinances should be reviewed and revised to help cut costs for small businesses in the Town.

In reference to this matter, Councilman Crocker asked Mr. Mongiello if he had been aware of the Town's ordinance prior to moving his business into the Town of Lockport. Mr. Mongiello replied that he was aware prior to the move but does not understand why he has been denied a variance.

Mr. Seaman, the Town Attorney, advised the Town Board not to respond as this matter is in litigation.

No one else spoke before the Town Board and the regular business meeting proceeded as follows:

2. Approval of Minutes

MOTION: to approve the minutes of Lockport Town Board meetings of 04/06/2009, and 04/08/2009 was made by Council member Crocker, seconded by Council member Antkowiak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

3. Approval of payment of Bills

MOTION: to approve payment of the bills for the month of May was made by Council member Siejak, seconded by Council member Pettit. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

Bills for the month of May consists of Vouchers#19028 -19227 in the amount of \$796,082.06.

4. Communications

The Town Clerk read the name of a candidate for volunteer fire service in the Town of Lockport, stating that the candidate had passed the required physical and other requirements of the Town Fire Prevention Bureau. The candidate's name is as follows:

Jonathan Enzinna.....South Lockport Fire Co.

MOTION: to approve the above listed candidate for volunteer fire service in the Town of Lockport was made by Council member Pettit, seconded by Council member Antkowiak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

5. Town Attorney

Mr. Seaman prepared S.E.Q.R.A. documentation relative to the Transit Road Water Line replacement project and stated it required Town Board action.

On a motion by Council member Pettit, seconded by Council member Siejak, the following resolution as duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

RESOLUTION

WHEREAS, a Long Form Environmental Assessment form having been prepared and filed by the Town of Lockport for the increase and improvement of water and sewer facilities, and this form having been reviewed and considered, and coordinated review having taken place, for the following project:

South Transit Road Waterline and Storm Sewer Project – Tonawanda Creek Road:

Water – Proposed project consists of installation of 13,000 +/- linear feet of new 12" waterline and appurtenances to be constructed on the east side of South Transit Road.

Sewer – Proposed project consists of installation of 6,500 +/- linear feet of storm sewer piping and appurtenances to be constructed on the east side of South Transit Road.

NOW, THEREFORE, THIS BOARD INFDS AS FOLLOWS:

The Town of Lockport Town Board is the Lead Agency. The action is a Type 1 action pursuant to the State Environmental Quality Review Act (SEQRA). After reviewing the Environmental Assessment Form and considering the information contained therein and related factors and information, this Agency finds that this action will not have a significant adverse effect on the environment for the reasons set forth in the attached proposed Negative Declaration and, accordingly, directs that the Negative Declaration pursuant to SEQRA be issued.

6. Supervisor's Monthly Financial Report

MOTION: to approve the Supervisor's Monthly Financial Report for the period ending April 30, 2009, as previously submitted to the Board, was made by Council member Siejak, seconded by Council member Crocker. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

7. Resolution/Order after Public Hearing – Improvement to Sewer Dist. #3 Sewer Line Extension in I.D.A. Park – 202b Amount of \$139,000

ORDER CALLING PUBLIC
HEARING TO BE HELD ON
May 6, 2009

WHEREAS, the Town Board of the Town of Lockport (herein called "Town Board" and "Town", respectively), in the County of Niagara, New York on behalf of Town of Lockport Sewer District No. 3, in the Town (herein called "District"), has requested Wendel Duchscherer P.C., duly licensed by the State of New York (herein called "Engineer"), to prepare a preliminary map, plan and report for the increase and improvement of facilities of the District, consisting of the construction of approximately 350 linear feet of 2 inch Sewer line and appurtenances on the south and east sides of IDA Drive North and 950 linear feet of 4 inch Sewer line and appurtenances on the east side of Enterprise Drive, Town of Lockport, Niagara County, New York, and pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be \$139,000

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NOW, THEREFORE, BE IT

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 6560 Dysinger Road, Lockport, New York, in the Town, on the 6th day of May, 2009, at 7:30 o'clock P.M. (Prevailing Time) to consider said improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it,

FURTHER ORDERED, that the Town Clerk publish at least once in the "UNION SUN & JOURNAL", a newspaper published in the City of Lockport, New York, and hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

8. Resolution/Order after Public Hearing – Improvement to Water Dist. #3
Water Line Extension in I.D.A. Park – 202b Amount of \$281,000

ORDER CALLING PUBLIC
HEARING TO BE HELD ON
May 6, 2009

WHEREAS, the Town Board of the Town of Lockport (herein called "Town Board" and "Town", respectively), in the County of Niagara, New York on behalf of Town of Lockport Water District No. 3, in the Town (herein called "District"), has requested Wendel Duchscherer P.C., duly licensed by the State of New York (herein called "Engineer"), to prepare a preliminary map, plan and report for the increase and improvement of facilities of the District, consisting of the construction of approximately 2,035 linear feet of 12 inch water line with valves, hydrants, service connection and other fittings and appurtenances on the north side of Enterprise Drive and the north side of IDA Park North roadway, Town of Lockport, Niagara County, New York, and pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be \$281,000

NOW, THEREFORE, BE IT

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 6560 Dysinger Road, Lockport, New York, in the Town, on the 6th day of May, 2009, at 7:30 o'clock P.M. (Prevailing Time) to consider said improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it,

FURTHER ORDERED, that the Town Clerk publish at least once in the "UNION SUN & JOURNAL", a newspaper published in the City of Lockport, New York, and hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

9. Resolution Opposing Assembly Bill A-05899 Requiring Town Justices
to be Licensed Attorneys

On a motion by Council member Antkowiak, seconded by Council member Pettit, the following resolution as duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

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RESOLUTION

WHEREAS, Assembly Bill No. A-05899 would authorize the accused charged with criminal offenses before non attorney judges in Town Justice Courts to have their case removed to Town Justice Courts with Attorney Judges, and

WHEREAS, there are only 3 courts in the County of Niagara which have Attorney Judges, and

WHEREAS, the Town of Lockport Town Court is one of the Town Courts with an Attorney Justice and

WHEREAS, transferring of criminal cases to Town of Lockport Town Court would cause increased time and expense, could affect staffing and all of which would be paid for by the Town of Lockport residents, and

WHEREAS, two thirds of the Town/Village Judges in the State of the New York are not attorneys, and

WHEREAS, it is the experience of the Town of Lockport that the non Attorney Judges in the Town have judiciously, competently, and expeditiously handled the criminal cases for many years and have excellent resources for continuing education and research backup, and continue to handle criminal cases competently and judiciously, and

WHEREAS, Assembly Bill No. A-05899 has still conceived and interfered inappropriately with the time honored grass roots justice system in Towns and Villages which do not require Town and Village Justices to be Attorneys, now therefore be it

RESOLVED, that the Town Board of the Town of Lockport hereby goes on record in opposition to adoption of said Bill and be it further

RESOLVED, that the Town Clerk be directed to forward a copy of this resolution to the Representatives in the Assembly and Senate who represent the citizens of the Town of Lockport, in the State Legislature.

10. Resolution to Authorize the 2009 Town Highway Drainage Projects

On a motion by Council member Pettit, seconded by Council member Crocker, the following resolution as duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

RESOLUTION

RESOLVED THAT, pursuant to Town Law Section 64 (11) (a), this Board hereby determines that the drainage projects set forth herein are beneficial to the Town as a whole, for the purpose of drainage of areas of the Town as affected by the various projects. The Town Superintendent of Highways is hereby authorized:

1. To commence and complete the drainage projects set forth herein, in the order in which he shall determine appropriate, and to complete certain of said projects and to make a determination not to complete others.

2. The cost of the expenditures set forth herein shall be made from the General Fund of the Town of Lockport from taxes levied or revenues received in the year in which the projects set forth below are completed.

3. The projects may be completed during the fiscal year 2009 or may be carried forward to future fiscal years, as time allows.

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4. The authorization herein shall be subject to the determination of the Superintendent of Highways as to the necessity, the practicality, and the expense of such projects.

5. The Superintendent of Highways is authorized to obtain permits and/or easements for entry upon private properties for the purpose of accomplishing the drainage projects set forth herein. Whenever possible, unless the Superintendent determines otherwise, permanent easements shall be required from property owners in order to accomplish the purposes of this Resolution.

6. The Superintendent of Highways is authorized to determine not to undertake any of the projects set forth herein, if he is unable to obtain appropriate permits or easements, or as he otherwise determines for any reason. In the event that the acquisition of property by the Town Board becomes necessary pursuant to its eminent domain powers, he shall so recommend such action to the Town Board. In such instances, the project shall not proceed without such acquisition.

7. The Superintendent of Highways is authorized to take any further related and ancillary action as is necessary to accomplish the purpose of this Resolution.

The projects which are authorized pursuant to this Resolution are:

- A. Excavation and cleaning of an existing ditch over and across the following designated properties:

Chestnut Ridge Road, Tax Map No. 110. 02-1-55.

This Resolution is subject to permissive referendum.

11. Resolution Calling Public Hearing – Increase and Improvement to Sewer Dist. #3 in the Town of Lockport, in the County of Niagara, New York pursuant to Section 202-b of the Town Law.

On a motion by Council member Siejak, seconded by Council member Pettit, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

ORDER CALLING PUBLIC HEARING
TO BE HELD ON June 3, 2009

WHEREAS, the Town Board of the Town of Lockport (herein called the "Town Board" and "Town", respectively), in the County of Niagara, New York on behalf of Town of Lockport Sewer District No. 3, in the Town (herein called "District"), has requested Wendel Duhscherer, P.C., duly licensed by the State of New York (herein called "Engineer"), to prepare a preliminary map, plan and report for the increase and improvement of facilities of the District, consisting of sewer repair including cured-in-place pipe of approximately 1,540 linear feet of existing sewer pipe and additional repair and lining of manhole at the Robinson Road Pump Station Service Area including portions of Marion Place, Beattie Avenue, Robinson Road and Dysinger Road, and at the Northview Gardens Service Area including Greenwood Drive and Northview Drive, Lockport, Niagara County, New York; and pursuant to the direction of the Town, the Engineer has completed and filed with the Town board such preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be \$135,000; and

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NOW, THEREFORE, BE IT

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 6560 Dysinger Road, Lockport, New York, in the Town, on the 3rd day of June, 2009, at 7:30 P.M. (Prevailing Time) to consider said repair of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the "UNION SUN & JOURNAL", a newspaper published in the City of Lockport, New York, and hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

12. TOWN BOARD COMMENTS

Councilwoman Antkowiak informed residents that the town recreation programs are in the Spring newsletter. Additionally, she reported that the Dale Association will sponsor a program targeted on the topic of Alzheimer's disease, to be held at the Town Hall on Wed., June 17, 2009. She urged anyone interested to attend.

Councilman Siejak reported that there is a used cell phone drop-off box located at the Town Clerk's office. The used phones will be sold and the profits thereof will go to providing calling cards for the troops overseas.

Councilman Siejak also congratulated David Kinyon, the Town of Lockport Director of Economic Development, for having been chosen as the recipient of the Union Sun & Journal's 2009 "Most Distinguished Citizen" Award.

Additionally, he also reminded residents that May is "Motorcycle Safety Awareness Month" and urged motorists to use caution and to look out for motorcyclists.

Councilman Pettit spoke on the issue of an article placed in the Union Sun & Journal which he believed would lead residents to think that he was against the Town's new soccer fields. He stated that this is simply not the case, he is not against the soccer fields or any proposed activities associated with the Day Road Park soccer fields. He stated that he felt the Town personnel could take soil samples for the fields at little or no cost to the Town, rather than to hire out the soil sampling.

Councilman Crocker reported that he has received many phone calls with regard to the NYS Budget cut of the STAR rebate checks. He informed residents that NYS Senator, George Maziarz, is suggesting that residents go to the web site, www.lwantmystarcheck.com and voice their desire to have the rebate checks re-instated by the State.

Additionally, Councilman Crocker reported that Wendel Duchscherer has prepared and sent an application to assist residents in their efforts to be removed from the proposed F.E.M.A. Flood Plain Maps.

13. Supervisor's Comments

Supervisor Smith reminded residents that the Town's parks close at dusk for safety reasons.

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Supervisor Smith also reported that the Town has been completing some project engineering in anticipation of applying for Federal Stimulus funds.

Additionally, he addressed the sign issue that Mr. Mongiello addressed under Public Comment section of the evening's meeting. He stated that the Town's current sign ordinance has been in effect for some 8-9 years. The Town's ordinances are well thought out and have been established after much research. The purpose of the ordinances is to assure that the Town has livable and aesthetically pleasing sign regulations. The Town does not tell anyone what can or cannot be on their signs but merely attempts to have all signs comply to the existing ordinance.

13. Adjournment

Councilman Pettit motioned to adjourn the meeting. Councilman Siejak seconded and the meeting was ended at 8:05 p.m.

The Lockport Town Board stands adjourned until 1:00 p.m. on Tuesday, May 26, 2009.

Respectfully submitted,

Nancy A. Brooks, RMC, CMC
Lockport Town Clerk