

June 19, 2013

A regularly scheduled work session of the Lockport Town Board was conducted at 1:00 p.m. on Wednesday, June 19, 2013, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith  
Town Council members: Paul W. Siejak  
Mark C. Crocker  
Patricia Dufour  
Absent: Cheryl Antkowiak

Also present: Nancy A. Brooks, Town Clerk, Michael J. Norris, Town Attorney and Robert Klavoon of Audubon Engineering.

Supervisor Smith welcomed everyone and then opened the meeting for the following discussion and/or action:

1. **Town Clerk**

The Town Clerk reported receiving notice of the renewal of the alcoholic beverage license for Gothic Hill Golf Course and a letter from the Niagara Co. Dept. of Health regarding the West Nile Virus/Arthropod Disease Surveillance Information.

Additionally, she stated that she is investigating the possibility of becoming a distribution center for the purchase of NYS E-Z Pass permits.

2. **Town Attorney**

Mr. Norris had the following two items to bring before the Town Board:

**Call for a Public Hearing on the Demolition of 6918 Tonawanda Creek Rd**

Mr. Norris informed the Town Board that the house at this location was in need of demolition but there is a current owner as well as a bank that is involved. He stated that he hopes that in calling for a public hearing on the matter, the owner and/or bank will take the appropriate action to bring the matter to a close. If the owner/bank does not take any action, the Town can then proceed to place a lien on the property.

**MOTION (2013-129)** to call for a Public Hearing on the demolition of the property located at 6918 Tonawanda Creek Road for 1:30 p.m. on Wednesday, July 24, 2013, was made by Council Member Siejak and seconded by Council Member Dufour. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

**Resolution to Appoint Town Clerk as Filing Officer for Notices of Claim Received by the Secretary of State**

**MOTION (2013-130)** on a motion by Council Member Crocker and seconded by Council Member Dufour, the following resolution was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

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**TOWN OF LOCKPORT**

**RESOLUTION**

**WHEREAS**, General Municipal Law, §53 requires towns to file a certificate with the Secretary of State as an agent for service of a notice of claim; and

**WHEREAS**, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary of State as the Town's agent: and

**WHEREAS**, pursuant to General Municipal Law, §50-e (1) (a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate;

**NOW THEREFORE BE IT**

**RESOLVED**, that the Town Board of the Town of Lockport, County of Niagara, designates Nancy A. Brooks, in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State, by mail at 6560 Dysinger Road, Lockport, New York 14094.

**BE IT FURTHER RESOLVED**, that the Town Board hereby directs the Town Clerk, to file the required certificate with the Secretary of State informing him or her of the Town's designation and applicable time limit for filing a notice of claim with the Town on or before July 14, 2013.

(Please note that applicable time limit for filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate General Municipal Law., §50-e (1) (a).

**3. Engineer**

**Reger Drive Lift Station** – due to the sewer backup over the Memorial Day weekend, Mr. Klavoon was instructed to investigate and to obtain quotes for the installation of grinding impellers for the Reger Drive Lift Station pump. He obtained two quotes for correcting the pump problem, the source of the problem known to have originated from a residential user. The lowest-priced solution was received from Koester Associates, the Town's main supplier and one which also complies with the Town's Standardization Policy and is already contracted to perform normal maintenance on the Town's lift stations. The other quote was near \$40,000 or nearly four times the amount. Koester Associates proposal was for the installation of two X-Peller pumps at the price of \$4,000.00. It was his recommendation to authorize the purchase of two pumps from Koester Associates.

**MOTION (2013-131)** to authorize the purchase of two X-Peller pumps from Koester Associates at the price of \$4,000.00 to be installed at the Reger Drive Lift Station was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

#### 4. Town Board Comments/Reports

*Councilman Crocker*, in referencing a letter received from a resident regarding a possible noise ordinance violation, questioned whether the Town should investigate other municipal ordinances relative to the legal decibel levels contained in noise ordinances. Supervisor Smith stated that the matter should be referred to the Town Attorney and that this particular complaint has been investigated previously by the Town Building Inspector and had found no violation.

Secondly, Councilman Crocker reported that David Miller, the Town Highway Superintendent had stated that some municipalities do not require drainage easements to perform regular drainage ditch projects and he questioned if this was a policy that the Town could follow in order to assist Mr. Miller to more easily facilitate drainage projects. Supervisor Smith stated that it has always been the Town's policy to obtain the necessary easements as to preclude residents from taking the Town to court over such issues. There has been previous experience where residents have taken the Town to court and have incurred additional expenses on the Town. Mr. Crocker asked what happens in the case where all the necessary easements are not obtained. Mr. Norris added that the Town proceeds to do a "taking" in those situations. Mr. Norris stated that he would be following a similar path as had Mr. Seaman, former Town Attorney, in requiring all necessary easements to be filed prior to any drainage projects. Mr. Crocker suggested that perhaps the Town be proactive in obtaining easements in advance. Supervisor Smith stated he believed that would just cause some residents to file suit against the Town and he stated he did not want the Town to be placed in that position.

*Councilwoman Dufour* reported on the Planning Board meeting of June 18, 2013, stating that they had approved the site plan for the Johnson Rose expansion on Crown Drive in the I.D.A. Park. The Planning Board also saw a rendering and a site plan presentation for Mantelli Trailer on Transit Road. They will come before the Planning Board again in July but she stated the new facility will be safer and will be more aesthetically pleasing with new landscaping.

*Councilman Siejak* thanked Supervisor Smith for inviting the Town Board to join him on a tour of the newly relocated Custom Laser facility on Akron Road (site of the former Franbilt Inc.). Councilman Siejak then presented a progress report on the Town's electronic recycling stating that in the month of May, 6952 pounds of electronics were recycled and a refund of \$510.38 was generated for the Town. He stated he was amazed at the increase in totals of recycled goods from one year to the next; reporting that the total recycled in May of 2012 was 1545 pounds.

Lastly, he wanted to report that tall grass exists at the muffler shop in front of South Lockport Fire Co. on Transit Road.

#### 5. Supervisor's Comments/Reports

##### **Authorize Hiring of Clerk for Building & Assessing Depts.**

**MOTION (2013-132)** to appoint Angela M. DePasquale-Glena as a full-time clerk for the Building and Assessing Departments at an hourly rate of \$10.75 was made by Council Member Siejak and seconded by Council Member Dufour. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

**DISCUSSION: Memorandum of Understanding with the NYS Dept. of Taxation**

The Supervisor stated that Jill Lederhouse, Town Assessor, had given him a Memorandum of Understanding from the NYS Dept. of Taxation regarding the Town's re-assessment program. He reported that GAR Associates, the firm the Town has used for several years to assist with the re-valuations had presented a quote with regard to the Town's intent to perform a Town-wide re-assessment. The quote was in excess of what was expected and it was his recommendation that additional quotes be sought to assist with the re-assessment. He feels that this should not stop the re-assessment process in the meantime. He expects that new quotes can be gotten and entertained within the next three to four weeks. He asked that the Town Board table any action on the matter with the Dept. of Taxation until such quotes and additional information can be gathered.

**N.Y.S. Trooper's Barracks Improvements**

The Supervisor stated he had done a walk through at the barracks to see and get a better understanding of the Trooper's requested improvements. They have asked for some new carpeting, new linoleum and some duct cleaning. There were five areas in need of new carpet for which he got one quote in the amount of \$3200.00. They will also need some new tile in one of the main rooms as well as a number of small items to be corrected. Supervisor Smith stated he will continue to obtain quotations for the aforementioned improvements and will report back at a later date.

**Transit North Grant Application**

The Supervisor reported that David Kinyon is attending grant seminars and has requested permission to apply for the federal grant funds from the TEP Grant. The Town would be applying in the "Beautification/Street Scaping" portion of the grant. The Town would act as Lead Agency and would be applying for nearly \$500,000.00 in funds of which the Town would be responsible for matching at a 20% level, or \$100,000.00. Rob Klavoon has already prepared a planting rendering for Transit Road (five sections) from Robinson Road north to Ruhlmann Road. Mr. Klavoon has applied to the NYSDOT for a permit to begin some tree plantings as well as some floral plantings. Mr. Kinyon will need the Town Board's approval very soon as the TEP Grant Application deadline is August 16, 2013. The issue will be brought up for discussion and/or action at a future work session.

**Rural Broadband Initiative**

The Supervisor reported that there are areas in the eastern and northern parts of the Town which do not have high speed internet capabilities offered to residents. Niagara County has proposed to install its own system throughout the County. This project would involve a three-phase proposal; the first being for the Town to perform a survey to determine where the service is needed (the Town's approximate cost \$4,800.00.), the second phase would be to build out the system, and the third phase would be to apply for possible grant funding to defray the cost of installation. After some discussion, it was decided that Supervisor Smith with set up a meeting with County representatives to discuss the project in more detail.

**Re-Appointment of Town Assessor** – will be added to the Town Board Agenda for July 10, 2013.

**Appointment to the Town Recreation Committee**

**MOTION (2013-133)** to appoint Jennifer Upson Steiner to the Town Recreation Committee was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

**6. Executive Session Entered**

**MOTION (2013-134)** to enter Executive Session for the purpose of consulting with the Town Attorney was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

The Town Board entered Executive Session at 1:41 p.m.

**7. Executive Session Ended and Work Session Reconvened**

**MOTION (2013-135)** to exit Executive Session and to reconvene the work session was made by Council Member Crocker and seconded by Council Member Dufour. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

The Town Board reconvened the work session at 2:19 p.m. with no Town Board action taken during Executive Session.

**8. Adjournment**

**MOTION (2013-136)** to adjourn was made by Council Member Dufour and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Dufour and Smith.

The meeting was ended at 2:19 p.m. The Lockport Town Board will next meet at 1:00 p.m. on Monday, July 8, 2013.

Respectfully submitted,

Nancy A. Brooks, RMC, MMC  
Lockport Town Clerk