

PRESENT Mayor Welch, Deputy Mayor Eydt, Trustee Coppins, Trustee Conde, Trustee Fittante, Law Counsel Leone, Engineer Marino, Clerk Fundis, Treasurer Longwell, Deputy Clerk Cassick, Recreation Director McDermott, Building Inspector Candella, Fire Inspector Beebe, Historian Piper, Beau Dugan

EXCUSED Superintendent Wills

CERTIFICATE OF APPRECIATION – ARTPARK’S 50TH ANNIVERSARY
On behalf of the Village of Lewiston, Mayor Welch and the Board of Trustees presented a Certificate of Appreciation to NYS Office of Park’s and Historic Preservation on Earl W. Brydges Artpark State Park and to Dave Wedekindt, Artpark & Co’s Interim President for Artpark’s 50th Anniversary. Proclamations were presented by Niagara County Legislator Becky Wydysh and Senator Robert Ortt.

PUBLIC HEARING Mayor Welch opened the public hearing at 6:10pm on the approval to use the Fund Balance for supplemental project funding for the Department of Public Works building addition capital improvement project in the estimated amount of \$90,250.00.

No residents were present to speak on this matter. A motion was made by Deputy Mayor Eydt seconded by Trustee Conde and passed unanimously to close the public hearing at 6:11pm.

CALL TO ORDER Mayor Welch called the meeting to order at 6:11pm.

MINUTES A motion was made by Trustee Conde seconded by Trustee Coppins and passed with four yes votes to approve the July 15, 2024 and July 16, 2024 minutes. Deputy Mayor Eydt abstained, as he was not present at these meetings.

BILLS A motion was made by Deputy Mayor Eydt seconded by Trustee Coppins and passed unanimously to approve the August 2024 bills presented by Treasurer Longwell in the following amounts:

General Fund: \$569,205.36
Capital Fund: \$9,640.00
Trust & Agency: \$25,759.57
Total: \$604,604.93

REPORTS **Police Chief Previte** said that our calls for service in the Town and Village of Lewiston have gone up 65.3%, the rest of the calls are up 28.2% and traffic tickets have gone up 107.16%. We are doing what we can and are working with some of our new intelligence resources.

Building Inspector Candella spoke on the condemned property, Oneida Street. The property owner was served. Law Counsel Leone said if there is no compliance, we can bring the property owner to Town Court, or to Supreme Court to have the building taken down at the cost of the Village of Lewiston.

Recreation Director McDermott said our summer family fun nights had 631 participants, with 175 families. Our youth basketball and arts and crafts programs were also very well attended. I have submitted a proposal for a joint basketball program with the Village of Youngstown that I am working on with their Recreation Director, Jeff Gruarin. We would be sharing space between both our facilities, as we have outgrown ours.

Historian Piper thanked the Village for the second room he was given in the Red Brick building. It is set up as a gallery to be viewed. Piper spoke on additional pieces and donations he has received.

LIASON REPORTS **Deputy Mayor Eydt** expressed his gratitude for an 18-year-old Lewiston Fire Co. No. 1 First Responder who took care of him during an incident that occurred at his house.

Trustee Conde thanked the DPW for the demo work they started in the bathrooms on the bottom floor of the Red Brick building.

Mayor Welch asked what was going on with the re-pointing of the brick on the Red Brick building. Trustee Coppins said we have two quotes, and I am still waiting on a third. Mayor Welch said we can move forward with the two quotes if you are unable to get a third.

Mayor Welch said I have been working with State Parks and Artpark for the Julie Silver's sculpture which was donated by Fran Williams and placed at the 4th Street entrance to Artpark. Thank you to Vince Cerrone for removing and placing the statue, and to the DPQ for pouring the cement. We will have a dedication ceremony soon.

Trustee Coppins asked if we received the applications for the VFW Banners. Clerk Fundis said not yet. Mayor Welch said she spoke with Frank Rotella, who said we won't get these until next year.

Coppins said we will have a joint meeting to discuss the police contract next Tuesday, August 27, 2024 at 6pm in the Mayor's office. Coppins asked Building Inspector/Zoning Officer Candella and Fire Inspector Beebe if they could submit their reports sooner than the Monday of the meeting, preferably the Friday before.

**OLD
BUSINESS**

535 Oxbow – Special Use Permit Request

Attorney Michael Dowd, representing property owner Lisa Carney Brochey spoke on her request for a special use permit to operate a beauty salon out of her residential home at 535 Oxbow Lane. A discussion ensued on the Village Code and whether or not this is permitted in a residential zoning district.

A motion was made by Trustee Coppins seconded by Trustee Fittante and passed unanimously to issue a special use permit to Lisa Carney-Brochey to permit a beauty salon to operate at 535 Oxbow Lane, based on the following stipulations:

- Hours of operation between 8am to 8pm
- Maximum of 2 chairs and 2 sinks
- One 9 x 20 parking spot that runs parallel to the street, paved adjacent to the existing driveway is permitted.
- The special use permit is conditional upon approval from the building and fire inspector, DPW and health and safety inspections.

Residents Margaret O'Keefe and Barbara Malinowski spoke in favor of Carney-Brochey being issued the special use permit.

**NEW
BUSINESS**

Resolution to Use Fund Balance for Supplemental Project Funding for Department of Public Works Garage Addition

A motion was made by Trustee Fittante and seconded by Deputy Mayor Eydt to approve the following resolution:

WHEREAS, on September 20, 2021 the Board of the Village of Lewiston (Village) adopted a bond resolution which authorized a capital improvement project for the Village Department of Public Works (DPW) generally consisting of the construction of two additions along the South and East sides of the existing DPW garage building and the construction of a new standalone building for volunteers (Project), including, but not limited to, general construction, plumbing, mechanical, and electrical work, as well as other improvements as more fully identified in (or contemplated by) a report prepared by Nussbaumer & Clarke, Inc. in connection with such project, and including all preliminary work and necessary equipment, materials and related site work, and any preliminary costs and other improvements and costs incidental thereto and in connection with the financing thereof, at an estimated maximum cost of \$1,800,000; and

WHEREAS, the Village publicly advertised the project for construction and subsequently received bids on June 2, 2022 and awarded contracts to the lowest bidders Wargo/Peak Construction (Contract 2022-1G) in the amount of \$1,398,300 and Frey Electric (Contract 2022-1E) in the amount of \$71,000 on June 20, 2022; and

WHEREAS, previously during the course of routine construction of the project, unforeseen conditions were encountered, in particular poor soil conditions which required additional contractor effort and funding to mitigate; and

WHEREAS, the Village previously held a Public Hearing on September 18, 2023 at 6:00 pm at Village Hall and entered a Resolution appropriating \$300,000 of Village General Fund balance to the Project to fund costs related to the then unforeseen conditions and amended the estimated maximum cost of the Project to \$2,100,000; and

WHEREAS, the Village Engineer, Nussbaumer & Clarke, Inc., has determined that an estimated \$90,250 in additional project funds beyond the bonded funds and previously appropriated and approved additional funds may be required to complete the Project; and

WHEREAS, based upon review of the General Fund with the Village Auditor it has been determined that Fund Balance can be used for supplemental Project funding and adequate funds are available in the Village General Fund Balance;

NOW THEREFORE IT BE:

RESOLVED, that up to \$90,250 of Village General Fund Balance be appropriated to the Project to fund Project costs related to the anticipated completion of the Project and serve as a contingency; and

BE IT FURTHER RESOLVED, that the estimated maximum cost of the Project shall be now amended to \$2,190,250.

Clerk Fundis polled the board, and the motion passed with the following results:

Fittante – Yes Coppins – Yes Conde – Yes Eydt – Yes Welch - Yes

Historic Preservation Commission Member Appointment

A motion was made by Trustee Fittante seconded by Trustee Conde and passed unanimously to appoint James Baptiste to the Historic Preservation Commission as an alternate/architectural consultant position.

Facilities Use Request - Lewiston Artisan Farmers Market 2025

A motion was made by Trustee Conde seconded by Trustee Coppins and passed unanimously to approve the facilities use request from Rachel Jolbert for use of Academy Park to hold the Lewiston Artisan Farmers Market on Saturday's from 7am to 2pm beginning May 31, 2025 through October 11, 2025, pending the submission of a signed updated facilities use agreement. The market will not be held during the weekends, the park will be used for Peach Fest.

Facilities Use Request – Slice Fest

A motion was made by Trustee Conde seconded by Trustee Fittante and passed unanimously to approve the facilities use request from Ray Barry for use of Academy Park and the bandshell to hold Slice Fest on Saturday, August 2, 2025 from 2pm to 11pm, pending the submission of a signed updated facilities use agreement.

Lewiston Fire Company No. 1 – Fire Protection Services Agreement

A motion was made by Deputy Mayor Eydt seconded by Trustee Conde and passed unanimously to approve Lewiston Fire Company No. 1 to act on behalf of the Village of Lewiston in negotiating a new fire protection services agreement with the Town of Lewiston.

Lewiston Fire Company No. 1 Member Resignation

A motion was made by Deputy Mayor Eydt seconded by Trustee Coppins and passed unanimously to accept the Lewiston Fire Company No. 1 resignation of Jodi Lynn Small-Furey.

Lewiston Fire Co. No. 1 Members Dropped from Rolls

A motion was made by Deputy Mayor Eydt seconded by Trustee Coppins and passed unanimously to approve Lewiston Fire Company No. 1 dropping the following members from their rolls:

Andrew Fultz
Sarah Pitts

Lewiston Fire Co. No. 1 Membership Approval

A motion was made by Deputy Mayor Eydt seconded by Trustee Conde and passed unanimously to approve the following Lewiston Fire Company No. 1 memberships:

Conditional Memberships: Quin Walton
Cooper Harasimowizz

Restricted Membership: Trevor Ingham

Lewiston Fire Co. No. 1 Residency Requirement

A motion was made by Trustee Conde seconded by Trustee Fittante and passed unanimously to approve the request made by Lewiston Fire Company No. 1 to waive the residency requirement for Matthew Grainge.

Executive Session

A motion was made by Deputy Mayor Eydt seconded by Trustee Conde and passed unanimously to enter into Executive Session immediately following the close of this meeting to discuss personnel and real property.

DISCUSSION**Request for Reduction of Wargo/Peak's Retainage**

A discussion ensued on Wargo's request to reduce the retainage for the DPW building addition project.

Engineer Marino said construction has been completed as well as construction change orders, the only thing needed is the retention to close out the contract. Wargo/Peak has not prepared the necessary documents, request for partial payment of their retention. Wargo/Peak has requested 50% of their retention, we are currently holding \$80,233.17; they are requesting \$40,116.88. Normally we would request to process this payment, however they have had several liens against them. Many have been cleared up by now, but they have two liens now that total about \$30,000. They have also submitted a letter sort of threatening damages for delays, that is why we didn't just process the \$40,116.88. Mayor Welch said I don't have a problem with giving them part of the retainage, however their letter requesting additional money for delays, it's not going to happen. If they give us a letter stating we won't come back on the Village for anything else, then I am good with it. Deputy Mayor Eydt said I would want something on record stating that the retention amount that we paid is going towards their liens.

Law Counsel Leone said I agree with you as well as Engineer Marino as to the one half of the amount being held until those liens are taken care of. In other words, they want the whole \$40,116.88; we are going to hold \$40,116.88, their liens are \$30,000, it gives us a little bit of working room. They want the other \$40,116.88 that is not liened, which they are claiming they are entitled to pursuant to the terms of the agreement. Give them the other \$40,116.88 because they are entitled to it but only if they waive off and say they are not going to sue us. Their counsel recently contacted me about a week and a half ago, I have not responded because of the liens. My response is you are not getting the money because there are liens. To tell you that they are going to accept what you just put on the table, I don't know. Engineer Marino said it is an unusual situation, if you want to approve the payment, I would do it contingent upon a written letter for retainage; they need to rescind their letter they submitted. Law Counsel Leone said it is essentially a release. A letter and follow-up letter are out there with additional requests for meetings and as I have told the board before, I have continued to put off any meetings until they can come back to us and say they have satisfied the

liens. I am not willing to sit down and discuss unless I know the liens on our project have been properly dealt with. As it stands, two of them have not. Engineer Marino said I think it is extremely fair, the entire project the village has worked to move it along.

A motion was made by Deputy Mayor Eydt seconded by Trustee Fittante and passed unanimously to approve to pay the retainage request of \$40,116.88 to Wargo contingent on complete satisfaction of any claims against the Village of Lewiston, with the understanding that the balance of one half will be retained until such time as those liens have been satisfied, and all necessary paperwork is provided.

REPORTS Mike Marino said the work for Lewiston Landing Phase V should start construction in September.

BOARD REPORTS Trustee Conde said the drawings for the Red Brick bathrooms are done. Trustee Fittante said they should be ready for review in a week.

ADJOURN A motion was made by Trustee Coppins seconded by Trustee Fittante and passed unanimously to adjourn the meeting and enter into executive session at 7:19pm.

Shannon Fundis, Clerk

EXECUTIVE SESSION

PRESENT Mayor Welch, Deputy Mayor Eydt, Trustee Conde, Trustee Coppins, Trustee Fittante, Law Counsel Leone, Clerk Fundis, Treasurer Longwell

Mayor Welch called the Executive Session to order at 7:28pm.

Discussion ensued on personnel matters. No action was taken.

A motion was made by Deputy Mayor Edyt seconded by Trustee Conde and passed unanimously to come out of Executive Session and return to a public meeting.

PUBLIC MEETING

BUSINESS A motion was made by Trustee Fittante seconded by Trustee Conde and passed unanimously to take the recommendations from EBC HR & Payroll Solutions, Inc. regarding a personnel matter that was discussed in the Executive Session.

A motion was made by Trustee Coppins seconded by Deputy Mayor Edyt and passed unanimously to remove Section 8.3.15 Sick Leave Incentive from the Collective Bargaining Agreement; contingent upon the Teamsters Local 264 agreeing to the removal.

ADJOURN A motion was made by Trustee Conde seconded by Deputy Mayor Eydt and passed unanimously to adjourn the meeting at 8:54pm.

Shannon Fundis, Clerk