

**PRESENT**

Mayor Welch, Trustee Gibson, Trustee Marasco, Trustee Eydt, Trustee Conde, Law Counsel Leone, Superintendent Wills, Police Captain Cain, Clerk Treasurer Salada, Deputy Clerk Fundis, Engineer Marino, Deputy Clerk Vasquez

**ABSENT**

Building Inspector/Zoning Officer Candella, Brendan McDermott

**CALL TO ORDER**

Mayor Welch opened the meeting with the Pledge of Allegiance at 6:02pm.

**OLD BUSINESS**

**300 Kerr St.** - A discussion ensued regarding the condition and excessive number of vehicles at 300 Kerr St.; Trustee Conde stated he was adamant about resolving the issues at this residence.

Trustee Eydt stated that the resident parks cars behind the hedge row making them difficult to see; he now has a flat bed with a junk car on it, with another junk car in front of the garage, a car almost to the edge of the road, and another car on the front lawn.

Trustee Conde added that the backyard has dismantled cars in it all the time, but we would not be able to site him for unlicensed vehicles because they are different cars all the time. I went to speak with the resident, he told me to get off his property when I asked him what his plans were; the property owner also said he got the property rezoned to commercial zoning and he could do whatever he wanted. I called Building Inspector/Zoning Officer Candella and had him come speak with the resident at that point. The resident told Building Inspector/Zoning Officer Candella he had a junkyard in Tonawanda and was thrown out for environmental reasons.

Mayor Welch stated that she would contact Building Inspector/Zoning Officer Candella at the end of the meeting to further address this situation.

Law Counsel Leone added that not only is he operating a business in a residential area, he is also violating parking regulations; Building Inspector/Zoning Officer Candella can add this violation to the notice.

**125 S. 1<sup>st</sup> St.** – Trustee Marasco asked Law Counsel Leone if he had heard back from the lawyer involved with the property at 125 South 1<sup>st</sup> Street.

Law Counsel Leone stated that the insurance company sent money and the mortgage holder took the funds. The property owner, Beau Sutor, wants to bring action against the mortgage company for taking the funds. As far as I am concerned, that has nothing to do with us. Essentially what Beau Sutor is saying is that the bank took his money, so he does not have the money to fix it. The last thing on record that I can find is from January 2019. There was a notice of appeal of the ruling that went against Beau Sutor. Beau Sutor owns the property subject to the mortgage; the mortgage is currently in foreclosure, which is now up on appeal.

**140 N. 1<sup>st</sup> St.** – Trustee Marasco mentioned that the property at 140 North 1<sup>st</sup> Street is in shambles. Both properties mentioned on 1<sup>st</sup> Street have been in this condition for years, it is time that we go to court to start addressing code violations.

Mayor Welch stated that the last conversation she had with the property owners at 140 North 1<sup>st</sup> Street was that they would be coming back at the end of November and beginning of December to work on the property.

Law Counsel Leone suggested that the code enforcement officer would have to issue code violations, then I would go to court to prosecute those violations. The property owner would

testify, and the judge rules whether those violations have been proven or not proven. The other alternative would be to bring an action in NYS Supreme Court, however it is time consuming and expensive. The best way to handle both properties is through code violations.

Trustee Marasco mentioned that she has been asking for five months in a row about the condition of 125 South 1<sup>st</sup> and 140 North 1<sup>st</sup>; I have asked Building Inspector/Zoning Officer Candella to address this to generate some type of action. First Street needs better attention. The neighbors of these properties are not happy with the condition of their street.

## **BUSINESS**

### **Lewiston Landing Emergency Rehabilitation Upgrade Payment to Mark Cerrone, Inc.**

A motion was made by Trustee Eydt seconded by Trustee Gibson and passed unanimously to pay Mark Cerrone Inc. for Lewiston Landing Emergency Rehabilitation Upgrade work as follows:

Application for payment **No. 5, File No. 15J1-0146** in the amount of \$158,098.85  
Application for payment **No. 6, File No. 15J1-0146** in the amount of \$153,798.03

### **H15-7180-3000 – Lewiston Landing Remediation**

### **Lewiston Landing Support Services Payment to Nussbaumer & Clarke**

A motion was made by Trustee Conde seconded by Trustee Marasco and passed unanimously to pay Nussbaumer & Clarke for Lewiston Landing Support Services as follows:

<b>Invoice number 93159</b>	<b>\$4,200.00</b>
<b>Invoice number 93160</b>	<b>\$765.00</b>
<b>Invoice number 94841</b>	<b>\$6,468.42</b>
<b>Invoice number 95383</b>	<b>\$11,828.55</b>
<b>Invoice number 95882</b>	<b>\$3773.03</b>
<b>Total</b>	<b>\$27,035.00</b>

### **H15-7180-4000 - Engineer-Admin**

### **Lewiston Landing Project Change Order Request by Mark Cerrone, Inc.**

A motion was made by Trustee Eydt seconded by Trustee Conde and passed unanimously to approve the Project Change Order requests from Mark Cerrone, Inc. related to the Lewiston Landing Emergency Repairs as presented by Engineer Marino.

There was a brief discussion discussing the change order requests. Engineer Marino stated that through all funding and grants have match requirements. You cannot use state money to match state grants. The village will be required to pay a portion of this, we are hoping it will be less than \$200,000 by the time the project is completed. In terms of the change order, we have consolidated the spread sheet, and the total amount of the change order is \$364,758.94; in addition to the original contract amount of \$1,599, 500.00, the new contract total is \$1,964,258.94.

Mayor Welch stated that we have money coming from DASNY, REDI, the state and insurance; we have to make sure we don't overlap the funds or double dip, we need to make sure we know who is paying what.

## **DISCUSSION**

### **Irate Citizen**

A discussion occurred regarding an irate citizen personally attacking a law officer at a prior board meeting. Trustee Marasco asked Law Counsel Leone if there were a set of decorum or rules to follow; I understand that it is freedom of speech, but I don't feel what occurred was acceptable.

Mayor Welch stated that this is an open meeting, this is freedom of speech; if they do become that unruly we can have the police escort the citizen out.

Trustee Eydt mentioned that the rules of decorum are the Roberts Rule of Order, and that is what we follow.

Law Counsel Leone agreed with Trustee Edyt that Roberts Rule of Order is what we are supposed to follow as our guideline. Time limits could be set, I know of other municipalities that set a maximum limit of two minutes.

### **Jet Boat Lease**

A brief discussion regarding the Whirpool Jet Boat Lease occurred. Mayor Welch stated that they are out of the water for the season.

Law Counsel Leone stated that the lease was termed, 'on or about the anticipated hours of operation shall commence on or about May 1<sup>st</sup> – October 31<sup>st</sup> of each year. It is anticipated that during such time period, they may operate the Whirpool Jet Boat seven days a week continuously from day break to sunset.' The lease is still in effect until October 31, 2042, and was put into effect in November of 2002. The rent is two installments of \$7,500 each, plus 1.5% of gross sales, up to \$40,000. In the past I know there have been some late payments; make sure the payments are done timely, as there is no late fee.

Trustee Conde asked if we can review the contract and adjust the lease if payments are late.

Law Counsel Leone stated that if the payments are late the question becomes whether it is a material breach or not. If it is then, we can talk about litigating and possibly putting somebody out of business, so you know the litigation would be long and hard.

Trustee Marasco stated that from now through 2042, the most money the village will receive from the Whirpool Jet Boat Tours is \$60,000; Niagara on the Lake in 2014 already had received \$140,000 in revenue from that year alone.

Mayor Welch stated that we have to go by the existing lease that is set in place.

Trustee Eydt stated that in the lease, we have the option to audit them.

Mayor Welch concurred with Clerk Treasurer that The Whirpool Jet Boat submit their audit information annually.

A brief discussion occurred in regards to water restrictions, and that the village does not have any jurisdiction on the water beyond the shoreline.

### **Plow & Salt Hopper Purchase**

Superintendent Wills presented a plan to add an oscillating plow to make a snow box and insert a 1.8 cubic foot salt hopper in the back of the 2011 Chevy. Currently we are unable to use the big trucks down the hills during ice storms, and only have one salt hopper. During the storm on Sunday, all those streets were salted by hand by my public works employees. I have the money within my budget, and it would come out of the Street Maintenance Account, A005010-4091. The bidding was done through a state bid by Source Well.

Mayor Welch and Trustee Marasco agreed this was a good idea. Mayor Welch stated that Superintendent Wills would still have to complete a procurement policy for the purchase.

### **Lewiston Landing – Portable Launch**

Superintendent Wills mentioned that sometime this week, he would possibly be pulling the last floater piece out of the ramp at the river. It is usually gone by this time, but was left in to help the fisherman. It has to be pulled out so the concrete company can add to the concrete because it has to be raised, and install the new ramp. The portable ramp has to come out before the ice comes down the river. The river will still be accessible to the fisherman during this time.

### **Red Brick School Back Door**

A discussion occurred regarding the broken glass on the door on the rear side of the building from the wind catching the door and slamming into the building. Superintendent Wills

stated that the stop chain that was placed on the door to prevent the wind from catching it had been removed without our knowledge. Superintendent Wills suggested an outside box that opens to the east to be built around the existing door, and to remove the narrow steps and replace with two wider ADA approved steps; we can tie in the sidewalk on 4<sup>th</sup> Street and the parking lot to make things more accessible and visually appealing. I have a quote for the glass box, but need to hire another company to do the roof, which is very expensive. The cost for the glass box to be built is around \$15,000 without the roof. I think we should come up with a master plan for the back of the school that will last 50-100 years. We don't want to build a glass box while all the concrete around it is falling apart.

Engineer Marino said plans for the concept can be drawn up, and we can possibly seek some grant money to help fund this.

Mayor Welch stated that we are also looking into obtaining grant money to redo the boiler system in the Red Brick Building as well.

Trustee Eydt added that we also want to redo the bathrooms downstairs.

A brief discussion occurred regarding the doors in the front of the Red Brick building needing some repair work to prevent wind and snow coming through the gap in between the two doors.

## **ANNOUNCEMENTS**

- The next Village Board meeting will be held on Monday, December 16th, 2019 at 6:00 PM.
- The Historic Preservation Commission meeting will be held on Monday, December 9th 2019 at 6:00 PM.
- The Planning Commission meeting will be held on Monday, December 9th, 2019 at 6:30 PM.
- There is currently no business for the Zoning Board of Appeals and no meeting scheduled.

## **ADJOURN**

A motion was made by Trustee Conde seconded by Trustee Eydt and passed unanimously to adjourn the village board meeting at 6:49pm.

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Shannon Fundis  
Deputy Clerk