

Work Session

6:00 PM

PRESENT: Supervisor S. Broderick; Councilmembers J. Myers, W. Burg & S. Weachter; Dep. Sup. W. Conrad; Bldg. Inspectors T. Masters & E. Zimmerman; Police Chief M. Salada; Eng. B. Lannon; Atty. A. Bax; Assessor N. Fiutko; Water Foreman D. Zahno; Hwy Sup. M. Weiss & Deputy Clerk B. Cogland; 2 Resident, and 1 Press.

ZOOM: Councilman R. Morreale

EXCUSED: Finance Director J. Agnello; Rec. Director T. Smith; Sr. Coordinator M. Olick; WPCC Ch. Op. J. Ritter

Supervisor called the Work Session to order followed by the Pledge of Allegiance and a moment of silent reflection keeping our United States Military in our prayers.

AGENDA APPROVAL

Legal – Executive Session - Consultation w/ attorney
Legal – Resolution – Riverfront Park Project
Old Business – Stormwater District – Essex Development

Agenda Approval

Burg MOVED to approve the agenda, as amended. Seconded by Myers and carried 4-0.

APPROVAL OF MINUTES

Burg MOVED to approve the minutes from the 02/09/2026 Work Session. Seconded by Myers and carried 4-0.

Myers MOVED to approve the minutes from the 02/23/2026 Regular Town Board Meeting. Seconded by Waechter and carried 4-0.

ABSTRACT

Waechter MOVED to approve the Regular Abstract of Claims Numbered 25-03717 thru 25-03720 and 26-00411 thru 26-00580 and recommended payment in the amount of \$711,169.38. Seconded by Burg and carried 4-0.

DEPARTMENT HEAD STATEMENTS

Clerk’s Office – B. Cogland

Parco Buildings has submitted a change order for the pole barn behind Town Hall. This is to supply and install two 5” gutters and two 2” x 3” downspouts, as well one row of snow-bar on each side of the roof. The total amount for the change order is \$2,590.00 in addition to the original contract.

Burg MOVED to approve the change order in the amount of \$2,590 to Parco Building for gutter, downspouts, and snow bars on the pole barn behind Town Hall, to be paid out of H97. Seconded by Myers and carried 4-0.

Highway Supt. – M. Weiss

Parco Bldg Change order for Pole Barn

March 9, 2026

Cliff Road project resumed today. There is a small retention pond on Oak Hill that is getting finished. The Highway Department will be purchasing a payloader from John Deere. This was budgeted for last year for \$250,000, but the total cost is \$260,601.83. This still falls within budget due to another piece of equipment that was budgeted for will not be purchased. It was necessary to purchase this machine from John Deere because the attachments and other equipment the Town already has are compatible with this specific machine.

Waechter MOVED to approve the Highway Department to purchase of a payloader from John Deere 5 Star in the amount of \$ 260,601.83 by the Highway Department. Seconded by Burg and carried 4-0.

Water Foreman – D. Zahno

There have been multiple water main breaks along the escarpment, one today, and one on Saturday. These have all been taken care of and resolved. The Village also had a water break today.

Bax asked to introduce a new fee schedule today. Bax had a meeting today at Town Hall with the Town Engineer. There were a number of changes made to the Building / Zoning Department fee schedule; some in the language, most in the fee amounts. These were very outdated and no longer covered the fees the Town incurred during various implications. Bax advised this new fee scheduled be implemented as soon as possible considering with spring coming up, more applications are sure to come in. Waechter asked what fees were increased. Masters said a lot of the changes would be the review fees. Language changes mainly to Recreation Fees – the Town Code used to say “per lot” – in various scenarios, only “one lot” was presented, but this “one lot” could hold two hundred apartments, or multiple houses on each lot. The fee schedule was last updated – not even in its entirety, only in a few places – in 2021. The current fees are not covering the Town’s costs for engineering review, department reviews, and presentations to the Town Boards. This counts for everything from a one lot split to a clay mine. The language currently says anything from a 1-4 lot split. That should be simplified to a one lot, and a 2-4 lot split difference. There has never been anything reflecting p.u.ds. There could be sixty units on one lot. This has not been accurately reflected on the fee schedule. Multiple topics and types will be updated in the new fee schedule, including sewer and I & I.

Burg MOVED to approve the new fee schedule. Seconded by Waechter, and carried 4-0.

Sr. Citizen’s Coordinator – M. Olick

The senior center is open. There were some broken water line issues that have been taken care of. The Western New York Produce truck is still coming to the center, though it can’t come every week, they come once a month year-round and this is a great thing to take advantage of. AARP appointments are still going on at the Sr. Center, currently there are no available appointments.

OLD/PENDING BUSINESS – Essex Stormwater District

There is a development off Bronson Drive and Upper Mountain Road that was initially slated for a stormwater district to be created. Unfortunately, that district had not been created between the time the initial developer created it and the time it was sold to Mr. Nanula who owns it now. Several homes have been sold already within the development and the Town is very concerned with the development coming full circle. After some negotiation, the Town has found that as much as it does not want to manage these long-term, moving forward, the easiest thing to do would be to follow through with the original plans. Bax has some written assurances that he has circulated with

Hwy Dept
to purchase
payloader from
John Deere
5 Star

Building/
Zoning new
fee schedule

Broderick for Essex Development. The Public Hearing on this long-standing issue has been opened and closed. Bax asked that the Board approve the making of the Stormwater District.

Establish Stormwater District - The Patios at Essex Ridge

Burg MOVED to establish the stormwater district at ‘The Patios at Essex Ridge’. Seconded by Myers and carried 4-0.

Waechter asked how the homes that have already been sold within the development are going to be addressed. Bax said this would be done by Public Hearing – where none of those owners attended. There will always be a tax on those sewer systems. Broderick said this was the original deal, though going forward the Town will avoid creating any Stormwater Districts.

NEW BUSINESS – None

SUPERVISOR BRODERICK

Riverfront Park Bathroom Project

Zimmerman explained there is an Outfall Building that is part of the Greenway Project and the Town has been looking to put public restrooms in the building. This outfall building is part of the Sewer Treatment Plant structure. The water goes out under this building. Over the last year, Zimmerman has met and worked with an architect and given recommendations as to what would work well there. The design is complete, and now the Town is ready to put the Riverfront Park Bathroom Project out to bid.

Riverfront Park Bathroom Project to bid

Waechter MOVED to put the Riverfront Park Bathroom Project out to bid. Seconded by Myers and carried 4-0.

Police Station Roof, Windows, and Doors

The Town bought the Police Station from Lewiston-Porter School for \$1. When this occurred, an engineer had determined problems with the roof, windows, and doors of the building, among other repairs that would have been required to be resolved by the school. As a municipality, the Town is not held to the same requirements. It is time to have these repairs made; the skylight window is leaking. This will go out as three separate projects – for the roof, windows, and doors.

Police Station Roof, Windows and Windows projects to bid

Waechter MOVED to put the Police Department roof, window, and door projects out to bid. Seconded by Myers and carried 4-0.

Legal – Resolution - Riverfront Park Project

The company awarded the winning bid for the Riverfront Park Project has failed to complete the project – that was supposed to have been completed December 12, 2025. They haven’t even started on the pier. The job is being considered abandoned, as no one has shown up to do any work there in weeks. The majority of the work has not been done, what has been done is defective and needs to be redone. There was a performance bond set in place to protect the Town if the underlying contract fails to perform. This resolution declares the contractor at fault and reads as follows:

RESOLUTION DECLARING CONTRACTOR IN DEFAULT AND AUTHORIZING THE CALLING OF THE PERFORMANCE BOND FOR THE RIVERFRONT PARK PAVILLION AND FISHING PIER PROJECT – CONTRACT No. 2025-1 – BOND No. L277336-218

March 9, 2026

WHEREAS, the **TOWN OF LEWISTON**, New York, 1375 Ridge Road, Lewiston, New York 14092 (the “Municipality”), entered into a written agreement dated **May 29, 2025** (the “Contract”) with **MURDOUGH DEVELOPMENT CONCRETE & MASONRY, INC.**, 515 Pavement Road, Suite 9, Lancaster, New York 14086 (the “Contractor”) for the construction of a pavilion and fishing pier in the Town of Lewiston Riverfront Park (the “Project”); and

WHEREAS, the Contract required the Contractor to furnish a Performance Bond in the full amount of the Contract Sum, issued by **LEXINGTON NATIONAL INSURANCE CORPORATION** (the “Surety”), to guarantee faithful performance of the Contract pursuant to New York State law and the Contract Documents; and

WHEREAS, the Contractor has materially failed to perform its obligations under the Contract, including but not limited to:

1. Failure to prosecute the Work with sufficient labor and materials to maintain the Project schedule;
2. Failure to complete the Work within the time required under the Contract;
3. Failure to correct defective or non-conforming Work;
4. Failure to pay suppliers/subcontractors who have provided materials and/or substantially performed under the Contract;
5. Abandonment and/or substantial suspension of Work without justification; and/or
6. Other material breaches as documented by the Municipality’s Engineer in written notices; and

WHEREAS, the Municipality has provided written notice(s) of default and provided an opportunity to cure to the Contractor pursuant to the terms of the Contract, and the Contractor has failed and/or refused to cure such defaults within the time required; and

WHEREAS, pursuant to the terms of the Contract and the Performance Bond, the Municipality is entitled to declare the Contractor in default and demand that the Surety perform its obligations under the Performance Bond; and

WHEREAS, the Municipality finds that it is in the public interest to declare the Contractor in default and to call upon the Surety to complete the Project and/or pay damages as provided in the Performance Bond.

NOW, THEREFORE, BE IT RESOLVED:

1. **Declaration of Default**

The Town Board of the Town of Lewiston hereby formally declares **MURDOUGH DEVELOPMENT CONCRETE & MASONRY, INC.** in default under the Contract for the construction of the Riverfront Park Project.

2. Termination of Contractor’s Right to Proceed

The Contractor’s right to proceed with the Work is hereby terminated, effective immediately, subject to the terms of the Contract.

3. Calling of Performance Bond

The Supervisor is hereby authorized and directed to formally notify **LEXIXTON NATIONAL INSURANCE CORPORATION** that the Contractor has been declared in default and to demand that the Surety promptly perform its obligations under the Performance Bond, including but not limited to:

- Arranging for completion of the Work;
- Undertaking performance directly; or
- Paying the Municipality the costs of completion and any other damages covered under the Bond.

4. Authorization of Legal Action

The Town Attorney is hereby authorized to take all necessary legal actions to enforce the Municipality’s rights under the Contract and the Performance Bond, including commencement of litigation if necessary.

5. Completion of the Project

The appropriate municipal officers are hereby authorized to take all necessary and proper actions to secure completion of the Project in accordance with the Contract Documents and to protect the Municipality’s interests.

6. Severability

If any provision of this Resolution is held invalid, the remainder shall remain in full force and effect.

7. Effective Date

This Resolution shall take effect immediately upon adoption.

Burg MOVED to approve the resolution as presented and enact the performance bond. Seconded by Waechter and carried 4-0.

Broderick expressed his disappointment with this situation. Riverfront Park means a lot to the Town and this failure to complete construction is upsetting to everyone involved.

Waechter MOVED for the Board to enter into Executive Session with the attorney with no action to be taken. Seconded by Burg, and carried 4-0. 6:30 p.m.

Waechter MOVED to exit Executive Session. Seconded by Burg and carried 4-0. 6:37 PM

Bax stated he brought the board into Executive Session to discuss a lot situated on the corner of Garlow Road and Saunders Settlement Road [1611 Saunders Settlement Road]. The building there has been an issue for the Town for a long time now from a code

Resolution declaring contractor at fault - Riverfront Park

Executive Session

Begin negotiation
for purchase
at 1611 S.S.Rd

March 9, 2026

compliance standpoint. This property recently sold on a land contract. The realtor approached the Town to see if negotiations with the new/current owner could be made, and perhaps a purchase deal could be made.

Myers MOVED to approve Attorney Bax to go into negotiations to purchase the building at 1611 Saunders Settlement Road. Seconded by Burg and carried 4-0.

FINANCE

The Finance Director asked for approval to process the following 2025 budget revision:

1. A request to move \$30,596 to Artpark-Modern Contractual - A00-7560-0400-0000 from Modern (Artpark) revenue - A00-1000-1270-0000, to cover 4th quarter 2025 payment to Artpark.

The Finance Director asked for approval to process the following 2026 budget revisions:

1. A request to move \$100,000 to Attorney Contractual - A00-1420-0400-0000 from Attorney Personnel - A00-1420-0100-0000, to move budget due to change in Town Attorney paid as a contractor and not an employee.
2. A request to move \$143 to Recreation Equipment budget - A00-7310-0200-0000 from Recreation Contractual - A00-7310-0400-0000, to cover equipment purchase.
3. A request to move \$16 to EAP Program - DB0-9089-0400-0000 from General Repairs Contractual - DB0-5110-0400-0000, to cover employee EAP benefits.
4. A request to move \$23,888 to Union Welfare Benefits - SS2-9070-0800-0000 from Medical Insurance - SS2-9060-0800-0000, to move budget due to change in union employee health insurance plans.

Budget
Revisions

Myers MOVED to approve the budget revisions as presented. Seconded by Burg and carried 4-0.

COUNCILMAN BURG

The Lewiston No. 2 Fire Company submitted a request to accept Allison Smith, Louis Zimmerman, Kalen Drury, Mike Swanson Jr., and Drew Conrad as new volunteer fire fighters.

Lewiston No. 2
Fire Company
New Fire
Fighters

Burg MOVED to accept Allison Smith, Louis Zimmerman, Kalen Drury, Mike Swanson Jr., and Drew Conrad as volunteer fire fighters for Lewiston No. 2 Fire Company. Seconded by Waechter and carried 4-0.

COUNCILMAN MYERS

Sanborn Area Historical Society will be holding their regular meeting Tuesday March 24th.

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COUNCILWOMAN WAECHTER

Waechter and Bax have been working on a moratorium on large Data Centers, Artificial Intelligence Processing Facilities, and Cryptocurrency Mining Operations within the Town of Lewiston. They are looking to have it on the agenda for the next meeting. After attending the Association of Towns meeting, the realization came that Lewiston is in a prime location for these entities to move in. The intent on the moratorium is to get ahead of this before it starts. With the Solar Farms, the Town felt like it was moving backwards, and that is something that can be avoided and this is the way to do so. Part of what can come out of researching the moratorium is that the Treatment Plant would be inapt to handle the downflow these kinds of facilities would create. Also, facilities like those use biocide for their computers and cooling. The amount that would end up in our Waste Water Treatment Plant would destroy the binome that is currently being used for digestion. This is something important to stay in front of.

AARP meetings at the Senior Center have been going great, a lot of people have received help there. There are currently no more available appointments for AARP at the Senior Center.

PRIVILEGE OF THE FLOOR – no one wished to speak

Waechter MOVED to adjourn. Seconded by Myers and carried 4-0. 6:47 P.M.

Transcribed and
Respectfully submitted by:

Briggett R. Cogland
Deputy Town Clerk

March 9, 2026

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