WEST SENECA TOWN OFFICES
1250 Union Road
West Seneca, NY 14224

TOWN BOARD PROCEEDINGS
Minutes #2012-04
February 27, 2012

Supervisor Sheila M. Meegan called the meeting to order at 7:00 P.M. with 30 seconds of silent prayer followed by the Pledge of Allegiance.

ROLL CALL:	Present -	Sheila M. Meegan	Supervisor
		Eugene P. Hart	Councilman
		John F. Rusinski	Councilman
	Absent -	None	

Supervisor Meegan read the Fire Prevention Code instructing the public where to exit in case of a fire or an emergency.

The meeting was dedicated to the memory of Donna Eno.

4-A MINUTES TO BE APPROVED

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve Minutes #2012-03 of February 13, 2012.

Ayes: All Noes: None Motion Carried

4-B LEGAL ITEMS

1. Motion by Supervisor Meegan, seconded by Councilman Hart, that proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO HEAR ALL INTERESTED PARTIES AND CITIZENS FOR OR AGAINST THE ADOPTION OF LOCAL LAW 2012-01, AMENDMENT TO SEWER CHAPTER" in the Town of West Seneca, be received and filed.

Ayes: All Noes: None Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Hart, to open the public hearing.

Ayes: All Noes: None Motion Carried

Town Attorney Shawn Martin read the proposed Local Law 2012-01 which is a modification to Chapter 97 Sewers, § 97-23 Prohibited Connections, (A) Non-Sanitary Connections. No person shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps, floor drains, such as garage or basement, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connection now in existence shall be removed, redirected, and/or otherwise incapacitated to prevent surface runoff or groundwater from entering directly or indirectly into a public sanitary sewer. Section B which was included in a previous local law enacted in late 2011 will be deleted as a result of this proposal.

4-B LEGAL NOTICES

1. (continued)

An Indian Church Road property owner expressed his concern about the requirement outlined in §97-23(A) of the local law, noting it is not uncommon for homes in this area to have these types of connections because of their age and the replacement cost would be extreme.

Supervisor Meegan stated there is a program available through Erie County called "Reconnect" which could possibly provide homeowners with some assistance.

Councilman Hart commented that there will still be a problem with privately owned laterals that make up a large percentage of the infiltration into the sewer system. Since the town is under a consent order from the DEC, he thought at some point they will be required to make some sort of change to the ordinance and they will be working hard to eliminate or limit the impact on the residents.

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Councilman Hart, seconded by Supervisor Meegan, to approve the attached Local Law 2012-01, modification to Chapter 97 Sewers.

Ayes: All Noes: None Motion Carried
APPENDICES

4-C TABLED ITEMS

1. Councilman Hart re Extension of Shared Assessor Agreement — Remained on the table.

2. Director of Recreation, Youth and Senior Services re Adoption of By-Laws for WSYHA — Motion by Supervisor Meegan, seconded by Councilman Hart, to remove this item from the table.

Ayes: All Noes: None Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to adopt the new and updated by-laws for the West Seneca Youth Hockey Association.

Ayes: All Noes: None Motion Carried

4-D COMMUNICATIONS

1. Supervisor Meegan re 2012 Annual Kiwanis Craft Show

Motion by Councilman Rusinski, seconded by Councilman Hart, to grant the request of the West Seneca Kiwanis Club to hold their annual Craft Show on Saturday, July 14, 2012 and Sunday, July 15, 2012 from 8:00 AM – 4:00 PM and further grant them approval to use the Lions Bandshell.

On the question, Councilman Hart questioned if insurance was in place for this event. Town Attorney Shawn Martin stated that this event has been run appropriately for many years and there have not been any issues in the past.

Ayes: All Noes: None Motion Carried

2. Supervisor Meegan re Budgetary transfer request

Motion by Councilman Rusinski, seconded by Supervisor Meegan, to approve a budgetary transfer of $2500 from Contingency Account 1.1990.0480 to Mandatory Training Account #1.1220.0414 - $2000 and Computer Software Account #1.1220.0216 - $500.

Ayes: All Noes: None Motion Carried

3. Chief Gehen re Attendance of Captains Sporysz & Shea at Law Enforcement Training Conference

Motion by Councilman Rusinski, seconded by Supervisor Meegan, to authorize Captains Robert Sporysz & Patrick Shea to attend the International Law Enforcement Educators & Trainers Association training conference April - 21, 2012 in Wheeling, Illinois at a total cost not to exceed $2,855.81, noting that sufficient funds are available in the police training course line item #1.3120.0459.

On the question, Councilman Hart asked Chief Gehen to comment on what the training entails. Chief Gehen stated the conference will provide the officers with information to evaluate training programs that are currently in place. Updated information will also be provided on both national and international levels regarding new programs available.

Ayes: All Noes: None Motion Carried

4-D COMMUNICATIONS

4. Chief Gehen re Title change for Desk Lieutenant Joel Fallon to Police Officer

Motion by Councilman Rusinski, seconded by Councilman Hart, to terminate Joel Fallon as Desk Lieutenant effective December 31, 2011 and appoint him as Police Officer effective December 31, 2011 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Chief Gehen stated that the Desk Lieutenant position was bargained out of the police contract several years ago and Desk Lt. Fallon was placed in the School Resource Officer position at that time. An issue was raised by the PBA and it has now been resolved so Lt. Fallon will now be a patrol officer.

Ayes: All Noes: None Motion Carried

5. Chief Gehen re Status change for part-time Public Safety Dispatcher Bill Szewc to seasonal

Motion by Councilman Rusinski, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatcher Bill Szewc to part-time seasonal effective March 1 - 31, 2012 and authorize the Supervisor to sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart questioned why the status of the part-time Public Safety Dispatcher is changed so frequently. Chief Gehen responded that part-time employees cover for full-time employees out with injuries, vacation, etc. According to civil service law, a part-time employee can work up to 19 hours a week, but if their status is changed to seasonal they can work up to 39 hours a week for a maximum of five months annually.

Ayes: All Noes: None Motion Carried

6. Chief Gehen re Status change for part-time Public Safety Dispatcher Diane Nowicki to seasonal

Motion by Councilman Rusinski, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatcher Diane Nowicki to part-time seasonal effective March 1 - April 30, 2012 and authorize the Supervisor to sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

7. Chief Gehen re Resignation of part-time clerk Tim Maciejewski

Motion by Councilman Rusinski, seconded by Councilman Hart, to accept the resignation of part-time clerk Tim Maciejewski effective March 1, 2012 and authorize the Supervisor to sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

4-D COMMUNICATIONS

8. Chief Gehen re Budget amendment request

Motion by Councilman Rusinski, seconded by Councilman Hart, to authorize the Town Board to amend the adopted 2011 General Fund budget with a $7042.65 increase to revenue account #1.1.4089.444 and a $7042.65 increase to expense account #1.3120.0407.

On the question, Chief Gehen stated this is a grant applied for every year that reimburses the town 50 percent for the cost of body armor. Money was recently received from last year's grant application and is being put back in the line item for uniforms.

Ayes: All Noes: None Motion Carried

9. Town Clerk re Extension of tax collection

Motion by Councilman Rusinski, seconded by Supervisor Meegan, to approve an extension of the time for collection of 2012 town/county taxes to July 2, 2012, noting that this will allow the town to keep the penalties rather than the county receiving them.

Ayes: All Noes: None Motion Carried

10. Code Enforcement Officer re Electronic message board at 146 Reserve Road

Motion by Councilman Rusinski, seconded by Councilman Hart, to approve an electronic message board for Trinity Lutheran Church located at 146 Reserve Road.

On the question, Councilman Hart asked Code Enforcement Officer John Gullo to explain the process regarding approval of electronic signs. Mr. Gullo stated that a policy was established several months ago to address issues and complaints frequently raised concerning electronic message boards with regard to the length of time a sign is lit. The Town Board has the ability to set a different time frame when approving the sign.

Ayes: All Noes: None Motion Carried

11. Code Enforcement Officer re Electronic message board at 2250 Transit Road

Motion by Councilman Rusinski, seconded by Supervisor Meegan, to approve an electronic message board for Seneca Greenhouse located at 2250 Transit Road.

Ayes: All Noes: None Motion Carried

4-D COMMUNICATIONS

12. Director of Recreation, Youth & Senior Services re Appointment of part-time clerk Grace Reedy

Motion by Councilman Rusinski, seconded by Councilman Hart, to appoint Grace Reedy as part-time Recreation ID Clerk at a rate of $8.00/HR effective February 13, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Rusinski questioned if this was a new position and Recreation Director Mary Josefiak stated that this was a back up person for the part-time ID clerk that was off sick.

Ayes: All Noes: None Motion Carried

13. Town Engineer re Columbia/Belgia Reconstruction Project, change order

Motion by Councilman Rusinski, seconded by Councilman Hart, to authorize a change order in the amount of $175,000 to Occhino Paving Corporation for additional work related to the Columbia/Belgia Reconstruction Project, noting that funding is available under budget line 05.5501.8197.0504

Ayes: All Noes: None Motion Carried

14. Town Engineer re French Road Reconstruction Project, change order

Motion by Councilman Rusinski, seconded by Councilman Hart, to authorize a change order in the amount of $20,639.97 to Occhino Paving Corporation for additional work related to the French Road Reconstruction Project, noting that funding is available under line item 5.5500.8197.0503

On the question, Councilman Hart questioned what the Engineering Department does to verify work associated with a change order. Town Engineer Richard Henry responded that all work is approved and inspected prior to implementing a change order.

Ayes: All Noes: None Motion Carried

15. Highway Superintendent re Attendance at the 2012 Advocacy Campaign for Local Roads and Bridges

Motion by Councilman Rusinski, seconded by Councilman Hart, to authorize Highway Superintendent Matthew English and Deputy Highway Superintendent Alan Kerner to attend the 2012 Advocacy Campaign for Local Roads and Bridges Meeting in Albany, NY, March 6 –7, 2012 at a cost not to exceed $700.

4-D COMMUNICATIONS

15. (continued)

On the question, Councilman Hart questioned what the advocacy campaign entails.

Highway Superintendent Matthew English stated that money is allocated in the state budget every year for the Consolidated Highway Improvement Program (CHIP) and each year the Erie County Highway Superintendents have the opportunity to lobby for funds for their highways. A representative from West Seneca has not attended this function in 7 – 8 years.

Ayes: All Noes: None Motion Carried

4-E WARRANT

Motion by Councilman Rusinski, seconded by Councilman Hart, that the General Fund, Highway Fund, Special Districts, Trust & Agency Fund and Capital Fund being vouchered and submitted for audit, chargeable to the respective funds be approved:

General Fund - $198,885.55; Highway Fund - $61,449.20; Special Districts - $18,990.32; Trust & Agency Fund - $3,441,728.09; Capital Fund - $288,545.68

On the question, Councilman Hart commented that this is the new procedure put in place for auditing the town's claims since the town no longer has a Comptroller.

Laura Landers of the Finance Department stated the new process will require the liaison or chairman of various departments to review and approve the vouchers. Once reviewed and approved, the Finance Department will confirm adequate funding is available for payment. The voucher summary reports are also being revised to include signature lines for the Town Clerk and all three board members. The report will be presented at each board meeting and once signed and approved checks will be released. A signed report will be retained in the Town Clerk's office. Mrs. Landers also submitted this process to the Office of the State Comptroller for their comment.

Ayes: All Noes: None Motion Carried

4-F REPORTS

- John A Gullo, Code Enforcement Officer's revised report for January 2012 received and filed.

ISSUES OF THE PUBLIC

CERTIFICATE OF OCCUPANCY

Representatives of the Buffalo Niagara Association of Realtors along with local realtors addressed the Town Board concerning the requirement for a certificate of occupancy prior to the sale of single family homes and duplexes. The ordinance was passed in 2007 but not enforced until recently and it was causing problems due to a lack of clarity on what is to be inspected. They did not believe a certificate of occupancy was necessary and thought the requirement will discourage prospective homeowners and undermine the values of residential properties. It was noted that West Seneca was only the second municipality in the country that had this type of ordinance. Concerns were also expressed that a checklist was not being used to inspect the houses and it was questioned how they will know every home will be inspected upon closing.

Code Enforcement Officer John Gullo commented that nothing was enforced until this year due to staffing limitations in the Code Enforcement Office, but he thought there was value to the certificate of occupancy inspection, noting that the overall goal is for public safety and to ensure everything is up to code. Out of 46 applications received, 52 percent failed due to lack of smoke detectors and carbon monoxide detectors, sump pumps hooked up to sewers, grids over windows, etc. Mr. Gullo stated inspections will be done based on when the house was built to ensure that everything is in compliance accordingly and they will have a checklist of what they are looking for.

Town Attorney Shawn Martin stated that the WNY Bar Association was notified that the change in the ordinance was being enforced.

Councilman Hart stated he recently purchased a two-family home in West Seneca and was required by the real estate agent or mortgage company to hire an inspector at a cost of $450. The inspector neglected to mention significant structural problems and other problems that existed with the property. Councilman Hart felt the evidence had shown that the certificate of occupancy prior to a residential house sale is a worthwhile process and should be done.

Home inspectors present at the meeting questioned various things the code enforcement officers do and stated they also check for safety. They commented on the number of people that look at a house when it is being sold, four of which are licensed by NYS, and thought the certificate of occupancy requirement was just adding another level. Objections were also expressed concerning the $100 charge for the certificate of occupancy.

Councilman Rusinski commented that safety is important but acknowledged that consistency and efficiency needs to be implemented with this issue. He would like the town to work with the realtors to ensure what is being done is safe, appropriate and not intrusive.

ISSUES OF THE PUBLIC

SEWER MEETING

Beverly Leising questioned when the meeting on the sewers will take place.

Town Engineer Richard Henry stated a public hearing cannot be held until all the properties involved are identified. There was an issue between the county and town in coding the properties and there were 628 properties in question. Once they have a map and legal description they should be ready to establish the order and he hoped that will be at the next meeting.

Mrs. Leising referred to the consent order and stated that under the Clean Water Act the town could be fined $37,500 a day for dumping more than the allowable amount of raw sewage into the creek. She also expressed concern that the town only has until 2018 to complete Phases II and III and questioned whether there could be any compensation for the mandates imposed.

Mr. Henry responded that Phase I was completed and submitted in November 2010 and is still pending approval from the DEC. The town was moving forward with Phases II and III as of the last meeting.

Supervisor Meegan stated there are many mandates that are unfunded, but the town is making every effort to acquire any funding that is available.

FENCE ON CLINTON STREET

Dennis Falzone questioned the status of a neighbor's fence that was supposed to be extended, noting that this has been going on since March 2011 and he was still waiting for proof the Judge accepted the current fence.

Code Enforcement Officer John Gullo stated he spoke with Town Attorney Shawn Martin regarding the amount of allowable time the neighbor should be given to extend the fence.

Mr. Martin stated he cannot supersede the Judge's decision, but he indicated to the Judge that Mr. Falzone would like something in writing concerning the fence.

BONDING

Karen Lucachik referred to town auditor Wayne Drescher's announcement of several areas where money that was bonded had been sitting and questioned why the town would bond for something and then not use the money.

Supervisor Meegan stated that this was done in a prior administration and she and Mr. Drescher have been correcting issues as they become aware of them.

ISSUES OF THE PUBLIC

AMERICORPS

Karen Lucachik questioned the AmeriCorps separation agreement, grant balances and Mississippi grant. Town Attorney Shawn Martin stated he will provide this information to the public and have it available online.

RECYCLING

Karen Lucachik commented on the garbage at the corner of Orchard Park Road and Ridge Road and suggested that the NYSDOT clean it up. She further referred to the town's recycling program and suggested the town look into the possibility of selling their recyclables, noting that the City of North Tonawanda and others are making money on their recycling.

CAPITAL PROJECTS AT TOWN HALL COMPLEX

Amy Carpenter referred to money to be spent around the Town Hall complex and questioned the necessities vs. wish list.

Councilman Hart stated they are working on this but noted they have only been in office since January. The estimated cost is $5 million for the Town Hall complex and they are looking for other ways to fund repairs and improvements, but they will have to prioritize what will be done. There were many decisions to be made and they had eliminated the thought of doing the youth center.

Mrs. Carpenter acknowledged there was a huge burden on the three board members but stated the public needs to be aware of the issues. She suggested having community neighborhood meetings to have the citizens help prioritize.

Supervisor Meegan stated they will keep the public informed the best they can.

BALL DIAMONDS AT FIREMEN'S PARK

Amy Carpenter questioned how many baseball diamonds were proposed for Firemen's Park and if they will make money for the town or just be more maintenance for the buildings and grounds crews.

Supervisor Meegan stated that five diamonds were proposed for Fireman's Park and it will be called "Home of Boys Baseball."

Councilman Hart commented that this will ease the burden on the Buildings & Grounds Department because the diamonds will be located in one place.

ISSUES OF THE PUBLIC

HOUGHTON COLLEGE PROJECT

Amy Carpenter referred to the Houghton College project and questioned whether the Judge had all the information and who represented the town.

Town Attorney Shawn Martin outlined the provisions for introducing new evidence, noting it is a very difficult process, and stated that Michael Perly represented the town in the Houghton College case.

SEWER DISTRICTS

Arlene Vogt questioned why road construction is covered by the town as one district instead of divided districts like the sewers and if reorganizing the districts will make Sewer District 13 bigger and have more money.

Councilman Hart responded that the sewer districts were established in the 1940's and 1950's. As the town grew it was divided into sewer districts and it was basically debt driven. The roads were historically a town wide cost.

Town Engineer Richard Henry stated the project will include Sewer Districts 5, 13 & 20 and an overlay district will be created. The districting has to do with tax and all special districts have two rules - He who benefits pays and he who pays has to benefit. Mr. Henry further explained the sewer district tax and how it was listed on property tax bills.

Mrs. Vogt further questioned if there will be a flow meter for Hazel Court. Mr. Henry responded that as of now there will not be a flow meter. They will estimate the flow based on the number of houses.

WEST SENECA BEE VS. PENNYSAVER

David Schultz questioned why the town uses the West Seneca Bee with a circulation of only 4200 to advertise meetings instead of the Pennysaver which has a circulation of 20,300.

Supervisor Meegan stated that the West Seneca Bee is a newspaper and the Pennysaver is not; however, they will be using the Pennysaver more often for advertising in the future.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to recess to Executive Session at 8:25 PM to discuss personnel issues with Chief Gehen.

Ayes: All Noes: None Motion Carried

The board members returned at 9:05 P.M.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

COMPREHENSIVE PLAN REVIEW COMMITTEE

Supervisor Meegan stated that the Town of West Seneca is in the process of forming a committee to review and recommend updates to the Comprehensive Plan. Anyone interested in serving on this committee was asked to contact Mary Jean Fitzgerald in the Town Attorney's office at 558-3240.

ADJOURNMENT

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 9:10 P.M.

Ayes: All Noes: None Motion Carried

Jacqueline A Felser

JACQUELINE A FELSER, TOWN CLERK