

9-B LEGAL ITEMS

3. 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 2014-06, ESTABLISHING A MORATORIUM WITH REGARD TO ESTABLISHING OR EXPANDING FACILITIES ENGAGED IN ANAEROBIC DIGESTION OF SOLID WASTE AND/OR SEWAGE OR OTHER SLUDGES, OR THE PROCESSING, STORAGE AND/OR DISPOSAL OF SUCH MATERIAL WITHIN THE TOWN" 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 Matt Palmieri stated this will be a six month moratorium on any expansion of the existing facility or new build. The moratorium will allow time to research potential negative effects of this type of business and better assist the Town Board in reaching an overall determination.

Supervisor Meegan stated the purpose and intent of the moratorium is so the board members can review and address in a careful manner the provisions relating to regulation and citing of facilities engaged in the processing of sewage, sludge, and septic disposal and to adopt appropriate provisions to achieve such purposes. The Environmental Commission, Town Engineer and legal counsel will all play key roles in this study.

Karl Spencer of the West Seneca Environmental Commission read a statement supporting a moratorium on the building or expansion of this type of facility. He stated the goal of the commission is to look at the pros and cons and do what is in the best interest of the citizens. Mr. Spencer stated he is willing to sit on a board and assist with the study.

Councilman Hart understood the company running the facility does not intend to build or expand in the immediate future, but the town still needs to go forward with the study.

David Kims thanked the Town Board for proposing the moratorium and providing the necessary time to complete a thorough study on this issue. He encouraged Supervisor Meegan to unite with other Supervisors and pressure state legislators to do something on a state level.

Councilman Hanley asked if Mr. Kims would be part of a board to study this issue and Mr. Kims responded he would be willing to assist.

9-B LEGAL ITEMS

3. (continued)

Councilman Hart questioned the authority of the Industrial Park Review Committee and if the Town Board can reject a plan that is approved by that committee.

Mr. Palmieri responded the Industrial Park Review Committee does an initial review and brings their assessment to the Town Board for final approval. They do not have the authority to vote yes or no on a restricted use permit.

Amy Carpenter referred to the spill that recently occurred at Quasar and questioned if the town will be looking at putting additional requirements or restrictions in place going forward.

Mr. Palmieri responded a full due diligence review will take place and any added language will be carefully crafted so it will not be overturned by any other governmental body.

Mrs. Carpenter questioned if the town can reject a project even if approval is received from the DEC and EPA.

Mr. Palmieri responded the Town Board can craft legislation that is more definitive; however, that language cannot supersede the DEC or EPA.

Mrs. Carpenter commented on standard procedures for odor and soil sampling. She questioned how an accurate air sample can be taken when the complainant cannot be present and how soil samples are self regulated and monitored.

Jeanette Mattucci understood the town is getting sludge from Amherst and Clarence and questioned why West Seneca would consider this while other towns are rejecting it. Ms. Mattucci voiced her concern that Quasar neglected to inform the town about a structural crack.

Supervisor Meegan responded that Quasar called the DEC directly and it was a natural spill that was cleaned up and handled properly. The DEC made no recommendations on what was done. She further stated the town is requesting a moratorium to take time to review the proposed expansion and ensure public safety is not compromised.

John Olivati stated he owns eight acres of land adjacent to the Industrial Park. During a thaw or when it rains, water from the Industrial Park flows onto his property. Mr. Olivati is concerned that leakage from the facility will flow into the 3' x 10' drainage ditch located at the rear of his property and end up in Buffalo Creek. He further commented on lagoon basins and the potential problems they present.

9-D COMMUNICATIONS

5. Supervisor Attorney re SEQRA determination for water transfer to ECWA

Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the attached SEQRA determination resolution for the transfer of the water distribution system owned by the Town of West Seneca to Erie County Water Authority, noting that no environmental impact statement is necessary and a Negative Declaration is therefore appropriate.

Ayes: All Noes: None Motion Carried
APPENDICES

6. Town Engineer re Quote for Mineral Springs Road re-paving

Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize CMH Company, Inc., 12704 North Road, Alden, NY 14004 to perform repaving work on the repaired section of Mineral Springs Road at their low quote of \$33,885 and noting that funding is available under budget line 003.8100.0445 sewer repairs.

Ayes: All Noes: None Motion Carried

7. Town Engineer re Purchase requiring Town Board approval

Motion by Supervisor Meegan, seconded by Councilman Hart, to approve the purchase of monorail and bar screen room doors at the Plant 6 facility from National Overhead Door, Inc., 5880 New Taylor Road, Orchard Park, NY 14127 at their low quote of \$5,904 noting funding for this work is available under sewer repairs budget line 3.8100.0443.

Ayes: All Noes: None Motion Carried

8. Highway Supt. re Title change for Jason Terry as Highway Laborer

Motion by Supervisor Meegan, seconded by Councilman Hart, to terminate Jason Terry as Sanitation Motor Equipment Operator and appoint Jason Terry as Highway Laborer, Group 1, Step 1 at a rate of \$25.36/HR effective May 5, 2014 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

9-D COMMUNICATIONS

9. Highway Supt. re Title change for David Baker as Sanitation MEO

Motion by Supervisor Meegan, seconded by Councilman Hart, to terminate David Baker as Sanitation Laborer and appoint David Baker as Sanitation Motor Equipment Operator, at a rate of \$19.05/HR effective May 12, 2014 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

10. Highway Supt. re Purchase requiring Town Board approval

Motion by Supervisor Meegan, seconded by Councilman Hart, to approve a piggyback purchase with the Livingston County Highway Department for a new and unused 2013 Interstate Model 102SDGN 50-ton-capacity equipment trailer from George & Swede Sales & Service, 7155 Big Tree Road, Pavilion, NY 14525 in the amount of \$62,030 noting this purchase is under the recently amended Piggyback Provision authorizing purchases by other municipalities as allowed by GML 103(16) with funding available in the Highway Reserve Fund.

On the question, Councilman Hanley questioned what the trailer will be used for and if it will be used frequently. Highway Supt. Matthew English responded the trailer will be used daily to move equipment.

Ayes: All Noes: None Motion Carried

11. Highway Supt. re Budgetary amendment request

Motion by Supervisor Meegan, seconded by Councilman Hart, to increase revenue Acct. #2.0002.0878 Highway Reserves and increase expense Acct. #2.5130.0202 Highway Machinery Reserves by \$383,699 each.

Ayes: All Noes: None Motion Carried

12. Chief Denz re Pay increase for Joshua Scanlon

Motion by Supervisor Meegan, seconded by Councilman Hanley, to increase the hourly pay rate for part-time Public Safety Dispatcher Joshua Scanlon to \$11.45/HR retroactively as of May 23, 2013, noting he was entitled to the raise and was inadvertently overlooked and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

9-D COMMUNICATIONS

13. Chief Denz re Attendance of K. Baranowski and D. Crowe at Law Enforcement Training Conference

Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize Detective Lieutenant Kevin Baranowski and Detective Daniel Crowe to attend the Canadian American Law Enforcement Organization (CALEO) training conference in Niagara Falls, Ontario, Canada, May 21 – 23, 2014 at a cost not to exceed \$700 noting that sufficient funds are available in the 2014 police training course line item #1.3120.0459.

On the question, Councilman Hart questioned the type of training.

Chief Denz responded the training is related to detective work and rotates between Canada and New York annually. Topics such as homeland security, homicide investigations and collection of DNA are presented and discussed.

Ayes: All

Noes: None

Motion Carried

14. Chief Denz re Status change for part-time Public Safety Dispatcher Matthew Leitzel to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatcher Matthew Leitzel to part-time seasonal effective May 1 - 31, 2014 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

15. Town Clerk re West Seneca Public Library annual yard sale

Motion by Supervisor Meegan, seconded by Councilman Hart, to approve the request of the Friends of the West Seneca Public Library to hold their annual yard sale on property adjacent to the West Seneca Public Library along Union Road and Legion Drive on Saturday, August 16, 2014 from 9:00 A.M. to 3:00 P.M.

Ayes: All

Noes: None

Motion Carried

16. Code Enforcement Officer re Status change for part-time Laborer Doug Busse to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time laborer Doug Busse to part-time seasonal effective June 2 – December 1, 2014 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

9-D COMMUNICATIONS

20. Supervisor Meegan re West Seneca Community 5K run and walk
Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve the West Seneca Community 5K run and walk on Thursday, June 26, 2014 beginning at 6:30 PM on designated streets in the Town of West Seneca, noting that Chief Denz and Highway Supt. Matthew English have reviewed the request and given their approval.

Ayes: All Noes: None Motion Carried

21. Town Engineer re Budgetary transfer request
Motion by Supervisor Meegan, seconded by Councilman Hart, to approve a budgetary transfer request of \$357,365 from the following Repairs and Maintenance Accounts:

<u>Account #</u>	<u>Amount</u>
3.8301.1443	\$ 34,448
3.8302.1443	21,139
3.8304.1443	53,946
3.8306.1443	204,787
3.8307.1443	12,130
3.8308.1443	23,300
3.8309.1443	7,615

to Direct Service to ECWA Acct. #5.1440.0200.0527 to cover expenses for the replacement of the Leydecker pump station generator.

Ayes: All Noes: None Motion Carried

22. Town Engineer re Energy Performance Contract
Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the attached resolution authorizing approval and execution of the second phase of the energy performance contract from Danforth.

On the question, Councilman Hart suggested Danforth representative TR Cassamente give an overview of the project.

Mr. Cassamente explained that Danforth will be continuing the energy performance contract they started approximately two years ago. The majority of the next phase will be street lighting and the installation of high efficiency bulbs. Mr. Cassamente noted there will be an approximate cost savings of \$5 million dollars over the term of the entire project.

Ayes: All Noes: None Motion Carried
APPENDICES

9-D COMMUNICATIONS

23. Town Engineer re Memorandum of Understanding with Erie County Water Authority
- Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the attached resolution authorizing the Supervisor to execute a memorandum of understanding with Erie County Water Authority (ECWA) with regard to transfer of the town water system to ECWA.

On the question, Councilman Hart explained this is the first step of a process beginning in the southern part of town. The water utility will be fully owned by Erie County Water Authority rather than the Town of West Seneca. Legacy and maintenance costs will be eliminated going forward.

Ayes: All

Noes: None

Motion Carried
APPENDICES

24. Town Assessor re Assessment Review Settlement Agreements
- Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the assessment review settlement agreements with MCI Communications Services Inc. and Verizon New York, Inc.

Ayes: All

Noes: None

Motion Carried

25. Resignation of Town Comptroller Jean Nihill
- Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the resignation of Jean Nihill and terminate her as Town Comptroller effective May 12, 2014 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

9-E REPORTS

- Jacqueline A Felser, Town Clerk's report for April 2014 received and filed.
- Comptroller Jean Nihill, Revenue/expense comparison control report posted as of May 12, 2014; Operating Fund voucher summary report, Trust voucher summary report & Capital voucher summary report posted as of May 12, 2014 received and filed.

ISSUES OF THE PUBLIC

COMPTROLLER'S OFFICE

Amy Carpenter referred to the resignation of Comptroller Jean Nihill and retirement of Linda Kauderer and questioned who is handling the town's finances.

Supervisor Meegan responded the board members were just notified of Mrs. Nihill's resignation and they will be discussing this in Executive Session.

SUMMER CAMP

Amy Carpenter questioned how many children were enrolled in the Summer Camp program and if counselors have been hired.

Recreation Director Craig Kroll responded approximately 100 children overall have enrolled. Interviews have been conducted and recommended appointments will be on the agenda for the June 2nd Town Board meeting. All new hires will have background checks and drug testing.

STATUS OF AMERICORPS PAYMENTS

Amy Carpenter questioned the status of AmeriCorps payments and if the town is continuing discussions with AmeriCorps.

Supervisor Meegan responded she is unsure if this month's payment was received and discussions are ongoing with AmeriCorps.

FLOODING IN LEXINGTON GREEN NEIGHBORHOOD

Stephanie Serrano referred to the flooding in the Lexington Green neighborhood, stating she is back in her home on Gregory Drive after 3½ months. She questioned the status of the sandbags and if a permanent berm is going in.

Councilman Hart responded it will be some time before these questions are answered since the study is ongoing.

Town Engineer David Johnson responded the Army Corps of Engineers is in the process of conducting a study and does not yet have the necessary data to make any determinations. The town currently has no plans to remove the sandbags.

Mrs. Serrano questioned if the debris in the creek will be cleaned out this summer.

Mr. Johnson responded he was not aware of any plans for the creek to be cleaned.

ISSUES OF THE PUBLIC

FLOODING IN LEXINGTON GREEN NEIGHBORHOOD (continued)

Councilman Hart stated that Department of Environmental Conservation (DEC) permits and Army Corp of Engineer (ACOE) approval is necessary to clean the creek.

Supervisor Meegan stated discussions are ongoing with the DEC and ACOE and funding for flood victims is continuing to be in discussed in Albany.

Mitch Martin from Senator Gallivan's office stated the Senator is working with Governor Cuomo's office and the issue is not forgotten.

Mrs. Serrano thanked board members for their quick response and placement of sandbags when the second flood occurred. She further commented on a neighbor in need of a structural engineer and questioned if the board members had any suggestions or recommendations.

Code Enforcement Officer John Gullo suggested the resident contact his office and he will provide a list of engineers that have worked in town.

HARLEM ROAD BRIDGE

Stephanie Serrano referred to a recent news report where FEMA declared certain bridges unsafe and is paying 75 percent of repair costs. She questioned if FEMA looked at the Harlem Road Bridge.

Supervisor Meegan responded that Congressman Brian Higgins has asked for \$12.2 million for the repair/replacement of the Harlem Road Bridge.

ETHICS COMMITTEE

Dale Clarke referred to an article about rethinking ethical behavior in the City of Lockport, stating many issues being addressed in Lockport are similar to problems in West Seneca. Mr. Clarke questioned if Councilman Hart had made his appointments to the Ethics Committee and if the committee will be meeting soon.

Councilman Hart stated he had made two appointments to the Ethics Committee.

Supervisor Meegan stated that meetings are called by Town Clerk Jacqueline Felser who chairs the committee. When issues are presented to Mrs. Felser it is at her discretion to call a meeting.

ISSUES OF THE PUBLIC

ETHICS COMMITTEE (continued)

Mr. Clarke referred to a previous issue brought before the board members regarding Zoning Board of Appeals Chairman Timothy Eling receiving super bowl tickets, airfare and hotel accommodations. He questioned if this will go before the Ethics Committee and when a determination will be made.

Supervisor Meegan responded the matter will be reviewed by the Ethics Committee and she did not know when a determination will be made.

FOIL REQUEST – COMPTROLLER’S OFFICE

Margaret Bielecki stated she received a letter dated April 8th acknowledging her FOIL request; however, she has yet to receive the information and it is now over 30 days since she made the request.

Supervisor Meegan requested that Town Attorney Matt Palmieri look into this issue and contact Mrs. Bielecki directly.

Mrs. Bielecki questioned if at any time anyone in the Comptroller’s Office was overpaid and if overpaid monies were reimbursed to the town by its insurance company. The period in question is from 2008 – 2012 when certain employees received out-of-title pay for all their hours (worked, sick time and vacation time) under titles that were not in the union contract. Mrs. Bielecki further stated in order for an employee to receive out-of-title pay it required Town Board approval and that approval was never given.

Councilman Hart responded this took place prior to him being on the Town Board, but there is a letter from the town’s insurance company stating there was no basis for the claim so it was denied.

Supervisor Meegan responded that this issue was filed under an employee dishonesty claim and the title issue was resolved. She assured Mrs. Bielecki she will receive the information and encouraged her to contact any board member with questions she might have once she reviews the paperwork.

Mrs. Bielecki voiced her concern regarding possible increased monetary retirement benefits for certain employees that were paid at a higher rate than they were entitled.

Supervisor Meegan suggested Mrs. Bielecki contact the NYS Comptroller with any concerns regarding retirement benefits.

ISSUES OF THE PUBLIC

ENERGY PERFORMANCE CONTRACT

Beverly Leising questioned if the next phase of street lighting and the installation of high efficiency bulbs will affect the Harwood Road and Tobey Hill Drive area.

Highway Sup't. Matthew English responded that decision will be up to Danforth who is the contractor.

Mrs. Leising referred to the lighting district charge on her tax bill, commenting she would be appreciative if that cost could be reduced.

STREETLIGHT REPAIR

Beverly Leising questioned the status of a streetlight repair in her neighborhood.

Highway Sup't. Matthew English responded crews were recently on site evaluating the repair which entails a lengthy dig under a fence and into a backyard. The electricians are aware of the situation, but the ground is soft.

AIR CONDITIONING AT SENIOR CENTER

Beverly Leising questioned why the air conditioning system at the Senior Center has not been turned on.

Senior Recreation Therapist of Senior Services Mary Josefiak responded it is difficult to adjust the system in the spring and fall due to a fluctuation in day time temperatures.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

SEXUAL OFFENDERS BILL

Mitch Martin commented on a bill proposed by Senator Gallivan that will require sex offender information be provided to the school district and municipality ten days in advance when moving into an area. He is also continuing to investigate legislation that will not exempt state facilities from local zoning codes.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

BUSINESS SUMMIT

Mitch Martin announced that Senator Gallivan along with the West Seneca Chamber of Commerce is sponsoring a free business summit at Certo Brothers on North America Drive on Friday, May 16th at 8:00 a.m. The Senator will speak on fostering a better business environment. Senior Business Advisor Frank Swiatek will also speak on ways to market businesses more effectively. Mr. Martin encouraged anyone interested in attending the summit to contact his office since seating is limited.

WOMEN OF DISTINCTION AWARD

Mitch Martin commented on Supervisor Meegan's numerous accomplishments and how hard she works for the citizens of West Seneca. In recognition of this, Senator Patrick Gallivan has selected Supervisor Meegan as the Woman of Distinction for 2014 and she will be honored tomorrow in Albany.

Supervisor Meegan thanked Mr. Martin for his kind words, stating it is a privilege and honor to receive this recognition and she is grateful and truly blessed to be Supervisor.

Town Clerk Jacqueline Felser and Senior Recreation Therapist of Senior Services Mary Josefiak congratulated Supervisor Meegan on her Woman of Distinction award, stating it is well deserved and they are proud to know her and work with her.

MOTHER'S DAY TEA

Recreation Director Craig Kroll reported on the success of the Mother's Day tea hosted by the YES Program and stated they plan to continue this event next year.

KIWANIS CENTER DANCE

Recreation Director Craig Kroll announced a dance will be held this Friday for sixth, seventh and eighth graders at the Kiwanis Center.

WEST SENECA CENTENARIAN

Councilman Hanley announced that West Seneca resident Ann Dubois is turning 100 years old on May 17th and wished her Happy Birthday.

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

TOWN BOARD PROCEEDINGS
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PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

CITIZEN OF THE YEAR AND COMMUNITY AWARD

Supervisor Meegan congratulated Ken & Kim Hanson who received the Citizen of the Year award from the Judges and Police Conference of Erie County. She also congratulated Highway Sup't. Matthew English and the Highway/Sanitation Departments who were the recipients of the 2014 Community Organization Honorees award from the West Seneca Central School District.

EXECUTIVE SESSION

Motion by Supervisor Meegan, seconded by Councilman Hart, to recess to Executive Session at 8:15 P.M. to discuss personnel issues.

Ayes: All

Noes: None

Motion Carried

The board members returned from Executive Session at 9:45 P.M.

ADJOURNMENT

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 9:45 P.M.

Ayes: All

Noes: None

Motion Carried



JACQUELINE A FELSER, TOWN CLERK

Please take notice that the following change was made in the Zoning Ordinance of the Town of West Seneca, County of Erie and State of New York, and notice thereof is hereby given, pursuant to §264 and 265 of the Town Law.

Whereas, the Town Board of the Town of West Seneca received a request for a special permit for the following described property located at 2421 Clinton Street from its classification of C-2 to C-2(S) for an oil change facility:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of West Seneca, County of Erie and State of New York, being part of Lot No. 1, Township 10, Range 7 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the south line of Clinton Street, distance 110 feet east of its intersection with the east line of Harlem Road as established by Deed recorded in the Erie County Clerk's office in Liber 2994 of Deeds at Page 261, said point of beginning being the northeast corner of lands described in the lease recorded in said clerk's office in Liber 6238 of Deeds at Page 499; thence southerly at right angles with the south line of Clinton Street and along the east line of lands described in said lease a distance of 180 feet more or less to the most northwesterly corner of lands conveyed by Busshart Development, LLC to Sixesses, LLC by Deed recorded in the Erie County Clerk's office in Liber 11123 of Deeds at Page 6036; thence easterly and along the northerly line of lands of Sixesses, LLC, by said Deed recorded in the Erie County Clerk's office in Liber 11123 of Deeds at Page 6036 a distance of 85.17 feet more or less to the west line of lands conveyed to Clara Oetinger by Deed recorded in the Erie County Clerk's office in Liber 1609 of Deeds at Page 438; thence northerly and along the west line of lands conveyed to Oetinger by Deed recorded in the Erie County Clerk's office in Liber 1609 of Deeds at Page 438 a distance of 180 feet more or less to the south line of Clinton Street; thence westerly along the south line of Clinton Street a distance of 85.17 feet to the point or place of beginning.

Whereas, this Town Board held a public hearing on the 12th day of May 2014 at 7:00 P.M., EDT in the Town Hall, 1250 Union Road, in said town, to consider granting a special permit for the above-described property; and

Whereas, at such time and place this Town Board did meet to hear any and all persons interested in the subject thereof concerning the same.

Now, therefore, be it resolved, that a special permit be granted and the zoning is hereby changed from C-2 to C-2(S);

Be it further resolved that the Town Clerk is hereby ordered and directed to make such change on the zoning map and to enter a copy of this resolution with the zoning regulations in a book appropriate for its use.

TOWN OF WEST SENECA

LOCAL LAW NO. 6 -2014

LOCAL LAW TO AMEND CHAPTER 120 OF THE TOWN CODE OF THE TOWN OF WEST SENECA RELATING TO ZONING TO ESTABLISH A MORATORIUM IN REGARD TO ESTABLISHING OR EXPANDING FACILITIES ENGAGED IN ANAEROBIC DIGESTION OF SOLID WASTE AND/OR SEWAGE OR OTHER SLUDGES, OR THE PROCESSING, STORAGE AND/OR DISPOSAL OF SUCH MATERIAL IN THE TOWN OF WEST SENECA.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WEST SENECA AS FOLLOWS:

SECTION 1: PURPOSE AND INTENT

The Town Board of the Town of West Seneca has received information from concerned residents, elected officials, regulators and others expressing concerns relating to potential adverse environmental, health and safety effects of the industrial generation, processing and large-scale storage of organic solid waste materials and sludges resulting from wastewater treatment plant processes through anaerobic digestion, and the disposal of such material through land application, and has determined that existing provisions contained in Chapter 120 of the Town Code of the Town of West Seneca may not create and meet appropriate standards and controls to allow for such uses in a manner necessary to protect the health, safety, and well-being of the citizens, property and environment in the Town of West Seneca. The Town Board desires to review and address, in a careful manner, provisions relating to the siting and regulation of facilities engaged in such processes and the disposal of sludge, sewage sludge, and septage on a comprehensive and town wide basis and to amend and/or adopt appropriate provisions to achieve these purposes.

The Town Board of the Town of West Seneca finds it prudent and necessary to enact a moratorium applicable to the establishment or expansion of facilities engaged in anaerobic digestion of solid waste and/or sewage or other sludges, as well as the processing, storage or disposal of such material in the Town. This moratorium is intended to ensure that no approvals for establishing or expanding such facilities or that such land use application be granted or permitted until this Board can complete its planning studies and has had an opportunity to consider and enact appropriate amendments to the Code.

SECTION 2: AUTHORITY

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York.

SECTION 3: APPLICATION

This Law shall apply to any and all land use or industrial operation engaged in, or proposed to be engaged in engaged in anaerobic digestion of solid waste and/or sewage or other sludges, as well as the processing, storage or disposal of such material, within the Town of West Seneca.

SECTION 4: DURATION

This Law shall be in effect for six months from and after its adoption.

SECTION 5: SCOPE

During the effective period of this Local Law no Board, Officer or Agency of the Town shall accept, process, review, recommend or grant approval for the siting, operation or expansion of a facility engaged in anaerobic digestion of solid waste and/or sewage or other sludges, or the land application or other disposal of such material with the Town of West Seneca.

SECTION 6: EXISTING ACTIVITIES

Any or all projects already approved or for which permits have been issued with respect to the operation of an anaerobic digestion facility as described herein, or the processing, storage and/or recycling of solid waste or the disposal of sewage, sewage sludge and septage for which permits have been issued may be continued during the term of this moratorium but may not be expanded. Nothing in this Law shall relieve any owner or operator of such existing facility from performing routine maintenance or emergency repairs that may be necessary to prevent the release of such material into the environment.

SECTION 7: SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence or part or provision of this Local Law shall not affect the validity of any other part of this Local Law which shall be in effect. This Local Law shall take effect immediately upon adoption by the Town Board of the Town of West Seneca and filing with the Secretary of State.

DULY ADOPTED, this 12th day of May, 2014, by the following vote:

Supervisor Megan
Councilman Hart
Councilman Hanley

Voted: Yes
Voted: Yes
Voted: Yes

**TOWN OF WEST SENECA
STANDARD WORK DAY AND REPORTING
RESOLUTION**

BE IT RESOLVED, that the Town of West Seneca hereby establishes the following as standard work days for elected officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the Clerk of this body:

(see attached)

RETIREMENT STANDARD DAY FOR RESOLUTION

TITLE	NAME	SSN#-last 4	REG #	STD DAY	TERM BEG	TERM END	TIME KEEP	DAYS/MONTH	ACTIVE RET
SELECTED									
Councilmember	John Rusinski			6	1/1/2011	12/31/2013	N	10	Y
Town Supervisor	Sheila Meegan			7	1/1/2012	12/31/2015	N	20	Y
Town Clerk/Receiver of Taxes	Jacqueline Felser			7	1/1/2012	12/31/2015	N	20	Y
Superintendent of Highway	Matthew English			8	1/1/2012	12/31/2015	N	20	Y
Town Justice	Jeffrey Harrington			6	1/1/2011	12/31/2014	N	6.94	Y
Town Justice	Dale McCabe			6	1/1/2012	12/31/2015	N	13.48	Y

TITLE	NAME	SSN#-last 4	REG #	STD DAY	TERM BEG	TERM END	TIME KEEP	DAYS/MONTH	ACTIVE RET
APPOINTED									
Zoning Board Chairman	Timothy Elling			6	1/1/2014	12/31/2018	N	2.62	Y
Zoning Board Member	Michael Harmon			6	1/1/2013	12/31/2017	N	4.70	Y
Zoning Board Member	Evelyn Hicks			6	1/1/2011	12/31/2015	N	1.16	Y
Planning Board Member	Robert Niederpruem, Jr.			6	6/5/2009	6/4/2016	N	2.46	Y
Planning Board Member	James Rathmann			6	3/2/2009	6/4/2014	N	2.62	Y
Deputy Sup't of Highway	Alan Kerner			6	1/1/2011	2/28/2014	N		Y
Deputy Sup't of Highway	Gregory Zimmerman			6	2/28/2014	12/31/2014	N		Y
Deputy Town Clerk	Mary O'Connell			6	1/1/2012	12/31/2014	N		Y
Town Prosecutor	John Fenz			6	1/1/2013	12/31/2014	N	3.34	Y
Town Prosecutor	Shannon Filbert			6	1/1/2011	12/31/2014	N	1.52	Y
Town Comptroller	Jean Nihill			6	1/1/2014	12/31/2015	N	13.34	Y

WHEREAS, the Town Board of the Town of West Seneca, as the lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has completed Parts I, II and III of Short Environmental Assessment Form ("EAF") in connection with the proposed transfer of that portion of the water distribution system owned by the Town to the Erie County Water Authority (the "Project"), has analyzed the existence and magnitude of potential environmental impacts associated with the Project and has otherwise taken a hard look at such potential impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

WHEREAS, for the reasons set forth in Part 3 of the completed EAF expressly incorporated by reference herein, the Town Board has not identified any potentially significant adverse environmental impacts associated with the proposed amendment, has determined that no Environmental Impact Statement is necessary and that a Negative Declaration is therefore appropriate;

THEREFORE, BE IT RESOLVED, that the Town Board does hereby adopt the Negative Declaration set forth in Part 3 of the completed EAF and directs the Town Clerk to file and distribute such Negative Declaration pursuant to the requirements of 6 NYCRR 617.12.

**TOWN OF WEST SENECA
AUTHORIZING RESOLUTION**

**ENERGY PERFORMANCE CONTRACT
May 12, 2014**

A RESOLUTION AUTHORIZING THE NEGOTIATION AND EXECUTION BY THE TOWN OF WEST SENECA OF AN ENERGY PERFORMANCE CONTRACT AND RELATED FINANCING AS DEFINED BY THE NEW YORK STATE ENERGY LAW, AS AMENDED AS DESCRIBED HEREIN.

WHEREAS, Section 9-102 (4) defines an Energy Performance Contract as "an agreement for the provision of energy services, including but not limited to electricity, heating, ventilation, cooling, steam or hot water, in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues."; and

WHEREAS, pursuant to Section 9-103 (1) of the New York State Energy Law, , the TOWN OF WEST SENECA, in the County of Erie, (the "Town") is empowered to enter into an Energy Performance Contract; and

WHEREAS, the Town by its Town Council has determined it in the best interest of the Town to enter into an Energy Performance Contract (the "Contract") to realize significant savings in energy costs by the installation of energy savings equipment (the "Improvements") in connection with various facilities owned and operated by the Town; and

WHEREAS, the estimated maximum costs for the Contract is \$3,882,544 plus the costs of issuance; and

WHEREAS, the total estimated energy/operational cost savings from the improvements is Contracted to be \$7,699,590 less total estimated annual Contract costs in the amount of \$6,370,181 for a net estimated cumulative cash flow savings in the amount of \$1,329,409; and

WHEREAS, pursuant to New York State Energy Law Section 9-103 (6) the Town issued a written request for proposals (the "RFP") from interested Energy Services Companies; and

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Council of the Town of West Seneca, Erie County, New York, as follows:

Section 1. The Contract is hereby authorized at a maximum estimated cost of \$3,882,544 plus the costs of issuance.

Section 2. A lease and/or a purchase agreement for a term not in excess of 15 years, plus installation period, or such other period of time as coincides with the life of the Contract is hereby

authorized.

Section 3. Pursuant to Energy Law Section 9-103 (1) it is hereby determined that the duration of the Contract shall not exceed the reasonably expected useful life of the Improvements.

Section 4. Pursuant to Energy Law Section 9-103 (2) the Contract shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefore shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract".

Section 5. The power to authorize and execute the Contract is hereby authorized as if by separate resolution and is delegated to the Town Supervisor, the Chief Fiscal Officer of the Town, subject to the review and approval of the Town Attorney; Bond Counsel for the Town; and the Town Fiscal Advisor, Capital markets Advisors, LLC.

Section 6. All other matters except as provided herein relating to the Contract herein authorized including the term, principal and interest rate of any lease executed pursuant, within the limitations prescribed herein and the manner of execution of the same, shall be determined by the Town Supervisor, as the chief fiscal officer of the Town.

Section 7. (a) The Town reasonably expects to reimburse itself for expenditures made for the Project from the proceeds of the Lease-Purchase Agreement herein authorized. The reasonably expected source of funds to be used to initially pay for the expenditures authorized by this resolution shall be from the Town's General Fund. Other than as specified in this resolution, no monies are reasonably expected to be received, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the objects or purposes described herein; and

(b) This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the Improvements described herein.

* * * * *

The foregoing resolution was moved by Supervisor Meegan and seconded by Councilperson Hart, and the vote thereon was as follows:

Supervisor Meegan voted	<u>Yes</u>
Councilman Hanley voted	<u>Yes</u>
Councilman Hart voted	<u>Yes</u>

WHEREAS, the Town Board of the Town of West Seneca has been studying the feasibility of transferring full ownership and operational responsibility of that portion of the water system within the Town presently owned by the Town, but managed by the Erie County Water Authority ("ECWA") pursuant to a leased-managed arrangement ("Town Water System"), to the ECWA; and

WHEREAS, the Town Board has determined that transferring the Town Water System to the ECWA is in the long term best financial interest of both the Town and the users of the Town Water System; and

WHEREAS, the Town Board has considered the potential for any adverse environmental impacts associated with such transfer and determined, pursuant to the State Environmental Quality Review Act, that no such adverse impacts are likely to occur, as reflected in the Negative Declaration dated May 12, 2014, incorporated by reference herein; and

WHEREAS, the ECWA has indicated that it is willing to assume ownership of and full operational responsibility for the Town Water System so long as certain improvements to the Town Water System are completed to ensure it complies with ECWA standards; and

WHEREAS, the Town Board and the ECWA have agreed to a framework for completing such improvements and transferring ownership of the Town Water System to the ECWA, as memorialized in a Memorandum of Understanding annexed to this resolution, as a necessary initial step in consummating the formal transfer of the Town Water System to the ECWA;

THEREFORE, BE IT RESOLVED, that the Town Supervisor is hereby authorized to execute the Memorandum of Understanding on behalf of the Town.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is entered into this 12th day of May, 2014 by and between the **TOWN BOARD OF THE TOWN OF WEST SENECA**, acting as commissioners for all Town Water Districts and on behalf of all water system facilities owned by the Town of West Seneca, with offices at 1250 Union Road, West Seneca, New York 14224 (the "Town") and the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation having an office and principal place of business at 350 Ellicott Square Building, Buffalo, New York 14203 (the "ECWA").

RECITALS

WHEREAS, the Town has constructed water system facilities in numerous water districts and water improvement areas within the Town of West Seneca, all of which water districts and water improvements areas are within the Town of West Seneca, all of which water districts and water improvements areas are lease managed by the ECWA pursuant to a Lease Management Agreement (the "Lease Management Agreement"); and

WHEREAS, the Town under the Lease Management Agreement has a number of obligations with respect to the water lines and other related facilities within the Town of West Seneca, including the obligation to pay for capital items as defined in the Lease Management Agreement and to undertake periodic upgrades of water lines and other facilities at the request of the ECWA, while the ECWA has responsibility for maintenance, non-capital repairs, and all billings; and

WHEREAS, the ECWA provides direct service to various areas of the Town of West Seneca and for these areas, the ECWA owns the water system facilities and has all responsibilities including capital improvements and maintenance; and

WHEREAS, the Town has determined that it would be in the best interest of the Town of West Seneca to have the ECWA takeover water service to the entire Town of West Seneca as a direct service provider, thereby eliminating all future involvement and responsibility of the Town with respect to water system facilities within the Town of West Seneca, except for the payment of direct service hydrant maintenance fees to the ECWA; and

WHEREAS, the ECWA and the Town understand that the Town will need to undergo a number of legal procedures in order to authorize the transfer of facilities from the existing Town water districts as well as other water system facilities owned by the Town of West Seneca to the ECWA, which procedures will take a considerable period of time; and

WHEREAS, the ECWA has advised the Town that prior to undertaking to accept the facilities from the Town of West Seneca and begin servicing the Town of West Seneca as a direct service provider, the Town will need to undertake a number of improvements to the existing Town water system facilities to bring them up to the standards required by the ECWA which will thereafter have sole responsibility for water services.

NOW, THEREFORE, the parties do hereby agree as follows:

- The town agrees that it will undertake the improvements to the water system facilities in the Town of West Seneca as outlined in a letter dated December 30, 2013 from Wesley C. Dust, P.E., ECWA Executive Engineer to Richard Henry, P.E., West Seneca Town Engineer, a copy of which is annexed hereto and made a part hereof (such improvements hereinafter referred to as the "Capital Improvement Plan"), it being the understanding of the parties that in order to authorize and construct the improvements outlined,

it will take more than one year for the Town to design, go through the necessary authorization procedures, and construct the improvements.

- Upon completion of the improvements outlined above, the Town will undertake steps required in order to authorize the transfer of the water system facilities owned by the Town of West Seneca and water system facilities owned by the various water districts of the Town of West Seneca, which steps include undertaking to establish an overlay district over the existing water districts to encumber new debt incurred for the Capital Improvement Plan, and then authorizing the Town to transfer those facilities and other water system facilities owned directly by the Town to the ECWA.
- The ECWA agrees that if the Town undertakes the improvements outlined in the letter dated December 30, 2013 and completes the improvements and the steps necessary to authorize the transfer of the water facilities to the ECWA within two years of the date of this Memorandum of Understanding, the ECWA will accept the water facilities from the Town as is, will not require that any further improvements be made, and will proceed to undertake service to the entire Town of West Seneca as a direct service provider.
- The Town agrees that, subject to the consent of the lessors, at the time of the transfer of the water system facilities, the Town shall assign any and all rights, obligations and interests it shall have in any telecommunication equipment located on any transferred water system facility to the ECWA, and the ECWA agrees that it will assume any and all rights, obligations and interest in such lease(s).
- In the event the Town is unable to undertake all the improvements and complete the steps required to transfer title to the ECWA within two years, the ECWA can require the Town to perform additional waterline replacement work in accordance with the following criteria, prior to the ECWA agreeing to accept the water facilities and service the entire Town of West Seneca as a direct service provider.
 - Any waterline that incurs multiple repairs averaging greater than four repairs/mile/year. The ECWA will evaluate these situations periodically based on increments of ½ mile of pipe or greater.
 - Any waterline that experiences breakage and repairs, and that the ECWA and the Town in good faith determine through physical inspection and testing to be at the end of its serviceable life. If the parties cannot agree as set forth above, an independent third party shall be mutually selected to make such determination.
 - Any waterline that is less than six inches in diameter which has a hydrant connected to it and is discovered after the execution of this MOU, and that was not listed, discussed or known by the parties prior to the execution of the MOU. The parties agree that they will compile a list of any such waterlines which are presently known to the parties prior to the date of the execution of this MOU.
- The parties agree that due to the legal proceedings required to be undertaken by the Town prior to performing the improvements and dissolving the various water districts of the Town, certain of which actions will be subject to permissive referendum, the Town cannot guarantee that it will be in a position to complete the work required and to authorize the transfer. On this basis, the Town will be under no legal obligation to transfer the water system facilities to the ECWA and the ECWA will have no obligation to accept the transfer of the water system facilities, unless the Town undertakes all the improvements as set forth in the letter of December 30, 2013, and completes all steps necessary to authorize the transfer within three years following the date of this Memorandum of Understanding, unless the date is extended due to extenuating circumstances and upon the mutual agreement of both parties.
- This Agreement shall not be assigned by either party without the express written consent of both the Town

and the ECWA.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date first above, as follows:

ERIE COUNTY WATER AUTHORITY

**TOWN BOARD OF THE TOWN
OF WEST SENECA**

By _____

By _____

Francis G. Warthling, Chairman

Sheila Meegan, Supervisor

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