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

TOWN BOARD PROCEEDINGS
Minutes #2013-011
May 13, 2013

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 to the Flag led by Chief Daniel Denz.

ROLL CALL:

Present	-	Sheila M. Meegan	Supervisor
		Eugene P. Hart	Councilman
		John M. 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 Barbara Pigeon, Joe LoTempio, Adeline Higgins, Mary Kline and Officer Frederick Garrasi III.

Motion by Supervisor Meegan, seconded by Councilman Hart, to move two Communications items to the beginning of the meeting.

Ayes: All Noes: None Motion Carried

17. Supervisor Meegan re Appointment of Daniel M. Denz as Police Chief

Motion by Supervisor Meegan, seconded by Councilman Hart, to terminate Daniel M. Denz as Interim Police Chief and appoint Daniel M. Denz as Police Chief effective May 13, 2013 at an annual salary of $115,988 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

Chief Denz was sworn into office by Judge Dale McCabe in the presence of family and friends.

8. Chief Denz re Appointment of Michael B. Boehringer as Assistant Police Chief

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to terminate Michael B. Boehringer as Police Captain and appoint Michael B. Boehringer as Assistant Police Chief effective May 14, 2013 at an annual salary of $100,707 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

11-A MINUTES TO BE APPROVED

- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve Minutes #2013-10 of April 25, 2013.

  Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve minutes from the April 25, 2013 Executive Session.

  Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve minutes from the April 16, 2013 bid opening for purchase of one (1) brush chipper.

  Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve minutes from the May 7, 2013 bid opening for the Police Department Addition Project.

  Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve minutes from the May 7, 2013 bid opening for the Burchfield Storage & Restroom Building Project.

  Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve minutes from the May 8, 2013 bid opening for the Greenbranch, Larkwood, Woodmar and Cardinal Lane Reconstruction Project.

  Ayes: All Noes: None Motion Carried

11-B LEGAL NOTICES

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 2013-04, MODIFICATION TO SECTION 74, FIREARMS" in the Town of West Seneca, be received and filed.

   Ayes: All Noes: None Motion Carried

11-B LEGAL NOTICES

1. (continued)

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

Ayes: All Noes: None Motion Carried

Town Attorney Shawn Martin stated this local law will modify Section 74 and allow discharge of firearms at the proposed indoor shooting range in the Industrial Park.

Joe Guadagno stated he is opposed to changing the ordinance and does not want to see a high concentration of guns in town. He feels an indoor shooting range will increase the potential for accidental shootings and add risk to the community.

Amy Carpenter questioned if b-b guns are considered firearms and Chief Denz responded that technically b-b guns are not considered firearms and are not dischargeable in town.

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

Ayes: All Noes: None Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Hart to adopt Local Law #2013-04 modification to Section 74, Firearms in the Town of West Seneca.

Ayes: All Noes: None Motion Carried
APPENDICES

2. Motion by Supervisor Meegan, seconded by Councilman Hart, that proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO CONSIDER A REQUEST FOR A SPECIAL PERMIT FOR PROPERTY LOCATED AT 1956 RIDGE ROAD, BEING PART OF LOT NO. 296, CHANGING ITS CLASSIFICATION FROM M-1 TO M-1(S) FOR SERVICE OF ALCOHOLIC BEVERAGES" 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

Joe Grimaldi co-owner of JD's Smokin Grill and Barbeque stated this location will not be considered a bar since 80% of services provided will be food based. He currently owns and operates the same type restaurant in the southern tier.

11-B LEGAL NOTICES

2. (continued)

No comments were received from the public.

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

Ayes: All Noes: None Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve a special permit for property located at 1956 Ridge Road, being part of Lot No. 296, changing its classification from M-1 to M-1(S), for service of alcoholic beverages.

Ayes: All Noes: None Motion Carried

APPENDICES

11-C COMMUNICATIONS

1. Town Attorney re Purchase requiring Town Board approval

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to authorize payment to General Code in the amount of $1,195 for annual maintenance of our Town Code online (E-Code) from May 1, 2013 - April 30, 2014 noting that funding is available in budget line #1.1420.0449.

Ayes: All Noes: None Motion Carried

2. Town Engineer re Purchase requiring Town Board approval

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve the purchase of ArcGIS software in the amount of $13,628 which includes four licenses and a two year maintenance agreement, noting that funding has been appropriated for this purchase in budget line #03.8100.1459.

Ayes: All Noes: None Motion Carried

3. Town Engineer re Attendance of employees at ArcGIS training seminar

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to authorize Matt English, Erik Finbar, John Gullo, Ron Pfeil and one (1) additional highway designee to attend an ArcGIS training seminar, July 9th and 10th, 2013 at a total cost not to exceed $5,050 and noting that funds are appropriated for this training in budget line #03.8100.1459.

Ayes: All Noes: None Motion Carried

11-C COMMUNICATIONS

4. Town Engineer re Bid awards for Police Addition Project

Motion by Supervisor Meegan, seconded by Councilman Hart, to award the bids for the Police Expansion Project as follows: Mechanical Contract to Tri-R Mechanical Services Inc. at their low bid amount of $149,891; Plumbing Contract to MLP Plumbing & Mechanical Inc. at their low bid amount of $61,800; Electrical Contract to South Buffalo Electric, Inc. at their low bid amount of $171,738 with alternate (E1) bid amount of $4,982.

On the question, Councilman Hart noted these were all the low bidders.

Ayes: All Noes: None Motion Carried

18. Town Engineer re Bid award for Police Addition Project – General Contractor

Motion by Supervisor Meegan, seconded by Councilman Hart, to award the General Contractor bid for the Police Expansion Project to Sicoli Construction Services, Inc. at their low bid amount of $814,700 noting that funding for this project will be paid by various town grants and money that was bonded and approved earlier this year.

On the question, Councilman Hart noted this is the low bidder.

Ayes: All Noes: None Motion Carried

5. Town Engineer re Bid award for Cardinal, Larkwood, Woodmar and Greenbranch Road Reconstruction Project

Motion by Supervisor Meegan, seconded by Councilman Hart, to award the bid for the Greenbranch, Larkwood, Woodmar and Cardinal Lane Reconstruction Project to DiPizio Construction Co., Inc. at their low bid amount of $1,611,241 noting that funding for this project was bonded and approved earlier this year.

On the question, Councilman Hart noted this is the low bidder and their bid was under the engineer's estimate.

Ayes: All Noes: None Motion Carried

11-C COMMUNICATIONS

6. Town Engineer re Review of Town's 2012 Annual Storm Water Report

Motion by Supervisor Meegan, seconded by Councilman Hart, that the 2012 annual stormwater report prepared by the WNY Stormwater Coalition will be available for public review in the Town Clerk's office May 20 – 24, 2013 from 9:00 A.M. to 5:00 P.M.

Ayes: All Noes: None Motion Carried

7. Town Engineer re Budgetary transfer request

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve a budgetary transfer request of $7,000 from GIS #03.8100.1459 to Salary - Engineering #03.8100.0144 to provide for an intern to work on GIS related projects.

Ayes: All Noes: None Motion Carried

9. Chief Denz re Resignation of Edward H. Jarka as part-time Public Safety Dispatcher

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to accept the resignation of Edward H. Jarka as part-time Public Safety Dispatcher effective May 9, 2013 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

10. Chief Denz re Status change for part-time Public Safety Dispatcher Richard Miller to seasonal

Motion by Councilman Rusinski, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatcher Richard Miller to part-time seasonal effective May 1 - 31, 2013 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

11. Highway Supt. re Re-bid date for brush chipper

Motion by Supervisor Meegan, seconded by Councilman Hart, to reject all bids from the April 16, 2013 bid opening and set a new bid date of May 29, 2013 at 10:00 A.M. for receipt of bids on the purchase of one (1) brush chipper for the Highway Department.

On the question, Highway Supt. Matthew English stated bids received were scattered and vague. Going forward the specifications will be changed so that all potential vendors will be bidding on the same equipment.

Ayes: All Noes: None Motion Carried

11-C COMMUNICATIONS

12. Highway Supt. re Appointment of part-time seasonal laborers in Buildings and Grounds Department

Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint the following part-time seasonal laborers in the Buildings & Grounds Department effective May 20 – August 23, 2013 at a rate of $7.25 per hour and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Thomas Bebak	Devin Chavanne	Dylan Biddeman
Kelsey Dellaneve	Tyler Sullivan	Austin Boehm
Tony Domros	Matt Wolf	Andrew Breen
Pat Keane		

Ayes: All Noes: None Motion Carried

13. Finance Director re Budgetary transfer request

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve a budgetary transfer request of $2,000 from Contingent Acct. #001.1990.0480 to Mandated Training #001.1010.0414 to establish a training line for town board members.

Ayes: All Noes: None Motion Carried

14. Senior Recreation Therapist of Sr. Services re Appointment of P. Pomana & F. Maracle as van drivers

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to appoint Peter Pomana and Francis Maracle as part-time van drivers for the Senior Center's Going Places Van Service effective May 13, 2013 at a rate of $7.25/HR and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart questioned the application process and if this position is advertised on the website. He further inquired if driving records are checked and if drug testing takes place.

Senior Recreation Therapist of Sr. Services Mary Josefiak responded she receives letters from a multitude of interested people and fills the positions as they become available. She was not sure if this position is advertised on the town's website and to date applicants have not been drug tested.

Ayes: All Noes: None Motion Carried

11-C COMMUNICATIONS

15. Director of Recreation re Appointment of part-time clerk typists in the Recreation Department

Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Moe Mosher and Grace Reedy as part-time clerk typists in the Recreation Department effective May 13, 2013 at a rate of $10/HR and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

16. Director of Recreation re Status change for part-time supervisors M. Talluto & M. Melski to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time Recreation Supervisor Michael Talluto to seasonal at a rate $11/HR and part-time Recreation Supervisor Matt Melski to seasonal at a rate of $18/HR effective June 1 - September 1, 2013 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart stated Mr. Melski's salary is based on the tremendous amount of responsibility he will assume.

Ayes: All Noes: None Motion Carried

19. Finance Director re Workers Compensation

Motion by Councilman Hart, seconded by Councilman Rusinski, to authorize the Supervisor to sign an agreement with the State of New York Workers' Compensation Board whereas the Town of West Seneca will make three equal payments of $78,836.33 on or before September 30, 2013, September 30, 2014 and September 30, 2015 for outstanding assessments due, and noting the payment plan is being granted with the understanding that the town will continue to pay current assessment bills as they become due.

On the question, Councilman Hart asked Finance Director Laura Landers for clarification.

Ms. Landers responded this an interest free agreement allowing the town to make three equal payments over a three year period to the Workers' Compensation Board for past due assessments.

Ayes: All Noes: None Motion Carried

11-C COMMUNICATIONS

20. Finance Director re Establishment of Reserve Accts.

Motion by Councilman Hart, seconded by Councilman Rusinski, to establish four reserve accounts in accordance with General Municipal Law, Section 6 as follows: accrued employee benefits; retirement contribution; insurance and workers compensation.

On the question, Finance Director Laura Landers discussed how the establishment of four reserve accounts is proactive planning and stated she would like to set these reserve accounts in place at this meeting and present a resolution with a funding plan in June.

Ayes: All Noes: None Motion Carried

11-D REPORTS

- Jacqueline A. Felser, Town Clerk's report for April 2013 received and filed.
- John A Gullo, Code Enforcement Officer's report for March and April and Plumbing report for April 2013 received and filed.

11-E WARRANT

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve the vouchers submitted for audit, chargeable to the respective funds as follows:

General Fund - $460,408.11; Highway Fund - $62,743.29; Special Districts - $78,971.80; Prepaid - $75.00 (voucher #'s 78062 - 78579); Trust & Agency Fund - $37,976.24 (voucher #'s 78469 – 78489); Capital Fund - $65,811.55 (voucher #'s 78394 – 78436)

Ayes: All Noes: None Motion Carried

ISSUES OF THE PUBLIC

VACANT HOUSES

Judy Cline voiced concerns about vacant properties in disrepair on her street. After contacting the Code Enforcement Office she was informed the town is limited to only enforcing building codes if property taxes are being paid. Problems begin to compile when properties become incomplete foreclosures because banks take over tax payments. Ms. Cline suggested the town put pressure on banks regarding incomplete foreclosures and stated that buildings need to be demolished when necessary.

ISSUES OF THE PUBLIC

VACANT HOUSES (continued)

Supervisor Meegan responded she is very familiar with this issue, has been in contact with local representatives and is working aggressively with the Code Enforcement Office in an attempt to resolve this problem. When property managers are negligent the town will back charge the cost of maintaining these properties.

POLICE EXPANSION PROJECT

Amy Carpenter questioned the total cost for the police expansion project.

Supervisor Meegan responded that the cost is about $1.3 million with $600,000 being funded through grants.

UNION CONTRACTS & SALARIES

Amy Carpenter questioned if union contracts along with employee salaries are going to be available online.

Supervisor Meegan responded that employee salaries will be available online within a week. Union contract questions can be directed to her office since the format is not compatible for placement on the town's website.

SHOOTING RANGE

Joe Guadagno questioned when would be the appropriate time to express his opposition to the shooting range now that the local law has been modified.

Supervisor Meegan referred to the town's website for agenda dates and responded that Mr. Guadagno can speak at upcoming Planning and Town Board meetings.

Town Attorney Shawn Martin stated because of the proposed location of the shooting range this will go to the Industrial Park Review Committee instead of the Planning and Town Board.

Code Enforcement Officer John Gullo stated the overlay criteria and NYS building codes have to be met to be in compliance. He suggested Mr. Guadagno send a letter to his office stating his concerns and he will forward a copy to the Industrial Park Review Committee.

Mr. Martin stated any further modification to Article 74 will have to be readdressed through the adoption of another local law, separate from the one approved tonight.

ISSUES OF THE PUBLIC

SAFE ACT

Joe Guadagno referred to a previous meeting where board members publically opposed the Safe Act due to the manner in which it was hurried through the Senate and Assembly and excluded law enforcement. He questioned if the board would publically support the Safe Act now that these issues have been addressed.

Councilman Hart responded that he supports portions of the Safe Act such as background checks on all gun transfers and sales. He thought the process itself should have been more organized and discussed publically.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

CHIEF DENZ EXPRESSES THANKS

Chief Denz thanked board members along with friends and family for their support.

BURCHFIELD RESTROOM & STORAGE FACILITY PROJECT

Town Attorney Shawn Martin recommended that all bids be rejected on the Burchfield Restroom & Storage Facility Project.

Motion by Councilman Hart, seconded by Councilman Rusinski, to reject all bids from the May 7, 2013 bid opening for the Burchfield Restroom and Storage Facility Project.

Ayes: All Noes: None Motion Carried

NATIONAL GOLDEN AGE GAMES WEEK

Councilman Rusinski read a proclamation designating May 30th – June 4th, 2013 as National Golden Age Games Week in the Town of West Seneca.

BALD FOR BUCKS

Councilman Rusinski congratulated West Seneca students on the terrific job of raising over $100,000 for the Bald for Bucks Program.

ADJOURNMENT

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 7:50 P.M.

Ayes: All Noes: None Motion Carried

Jacqueline A Felser

JACQUELINE A FELSER, TOWN CLERK

TOWN OF WEST SENECA

LOCAL LAW 2013-04

LOCAL LAW MODIFYING SECTION 74 - - FIREARMS

§74-1 Legislative Findings: The Town Board of the Town of West Seneca, County of Erie, and State of New York, finds that the discharge of firearms within said Town, is hazardous to the residents of the Town and the general public.

§74-2 Discharge of Firearms Prohibited: Except as hereinafter excepted or permitted, no person, firm, association or corporation shall discharge any firearm or permit any firearm to be discharged within the Town of West Seneca. The foregoing prohibition shall not apply to

(a) duly constituted law enforcement officers engaged in the lawful performance of their duties; or
(b) the discharge of any firearm as part of any approved indoor shooting facility properly supervised in an area or building occupied and maintained for that purpose at the following location(s):

    (i) 1000 North America Drive, West Seneca, N.Y. 14224.

(c) Any person and/or entity who has obtained or obtain a permit as described in Section 74-3 of the West Seneca Town Code

§74-3 Permit required for discharge: Upon application by the owner or occupier of land within the Town of West Seneca, the Town Board may issue a permit for the discharge of firearms thereon. The application shall be referred to the Police Chief for review and recommendation by the Police Department. If, following such review, the Town Board determines that the discharge of firearms on the land area covered by the application is appropriate, it shall issue a permit to the owner authorizing the discharge of firearms on his land or such part thereof as the Town Board shall determine. The Town Board may further establish conditions or restrictions with respect to the permit in order to prevent hazard to persons or property. Any permits issued pursuant to this Section shall be maintained in the Town Clerk's Office. Permits issued under this Section shall be valid for one year and each shall expire on December 31st of the year.

<u>§74-4 Penalties for offenses:</u> Any person or persons, association or corporation committing an offense against this chapter or any section or provision thereof is guilty of a violation punishable by a fine not exceeding two hundred fifty dollars ($250.00) or imprisonment for a period not exceeding fifteen (15) days for each such offense, or by both such fine and imprisonment.

§74-5 Severabililty: If any section, clause or provision of this article or the application thereof to any person is adjudged to be invalid, the adjudication shall not affect other sections, clauses or provisions or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses and provisions of this article are declared to be severable.

§74-6 When effective: This article shall take effect immediately upon filing with the New York State Department of State.

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 has received a request for rezoning the following described property from M-1 to M-1(S) for service of alcoholic beverages:

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. 296, Township 10, Range 7 of the Buffalo Creek Reservation, bounded and described as follows: Beginning at a point in the Northerly line of Ridge Road as now laid out where the same is intersected by the Westerly line of premises conveyed to Nicolas Hull by deed recorded in the Erie County Clerk's Office in Liber 2130 of Deeds, at Page 232, February 24, 1931; thence Northerly along the West line of premises so conveyed by said deed, 377 feet; thence Easterly at right angles 148 feet; thence Southerly parallel with the Westerly line of premises so conveyed by said deed and parallel with the West line of Lot Number 296, 348 feet more or less to the North line of Ridge Road; thence Westerly along the Northerly line of Ridge Road 150 feet to the point or place of beginning.

SUBJECT TO covenants, easements, and restrictions of record, if any, affecting the above-described premises, including but not limited to an ingress and egress easement recorded in the Erie County Clerk's Office in Liber 8753 of Deeds, Page 441

Whereas, this Town Board held a public hearing on the 13th day of May, 2013 at 7:00 P.M., EDT in the Town Hall, 1250 Union Road, in said Town, to consider granting the application for rezoning 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 the above described property is rezoned from M-1 to M-1(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.