

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

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 Joyce Bensman, Joseph Colleran, and Jackie Schmidt.

Supervisor Meegan stated that Town Attorney Shawn Martin had reviewed the issue concerning whether or not a super majority vote is required in the rezoning of 2735 Clinton Street and was prepared to give the results of his review.

Mr. Martin stated he reviewed the maps in the Assessor's office outlining the various parcels within 100' that are to be counted pursuant to Town Law §265. These parcels within 100' comprised 866,734 sf and 20 percent of that figure to require a super majority vote is 173,346.9 sf. After reviewing the petitions submitted, Mr. Martin found that some individuals who signed the petition did not reside within the prescribed boundaries as required by the statute. The square footage of property owners who did reside within the appropriate distance was approximately 47,700 sf which fell well short of the super majority requirement. In his opinion, the super majority requirement does not apply and a simple majority is the appropriate measure to pass the rezoning.

Supervisor Meegan stated that the proposed rezoning was reviewed and approved with an accepted environmental impact statement and also by obtaining SEQR confirmation. The Town Board did not go along with the recommendation of the Planning Board since the condition imposed included a buffer zone of 175' on the residential side of the proposed rezoning. The Town Board viewed this condition to be so excessive as to constitute a taking of a substantial portion of the property being rezoned and so restrictive that it would prevent the proposed use by the petitioner. The offer by the petitioner of a 40' buffer area with 6' berm was sufficient to address concerns of noise and air pollution especially since it was established that prevailing winds flow away from the residential area and that the prior use of the property for a large number of greenhouses had allowed trucks regularly up to the residential property lines. Deviation from the town's Comprehensive Plan was considered acceptable since the Plan was adopted in 2006 and the recommendation of a continuation of agricultural and residential usage was no longer viable given the existing character of the area which had dramatically changed since 2006. The Comprehensive Plan is a guide only and should be modified to reflect significant changes in conditions and circumstances that already

exist on Clinton Street. There are no longer farms in the area which have been converting into commercial and other enterprises on this highly traveled, higher speed thoroughfare and residential usage has become very limited because of the substantial changes that have already occurred. The concerns raised about the unrestricted use of the property by future owners given the expanded nature of the C-2 designation are not based on fact. Several acres of the parcel to be rezoned are significantly designated as wetlands and fall within the jurisdiction of federal regulations and therefore cannot be utilized in any commercial fashion. Additionally 13.24 acres are being purchased by the Town of West Seneca as a nature and wildlife park with public access and once again future deviation or alternative use other than as approved by the Town Board is not open ended but is regulated and controlled by the federal government and the NYSDEC by virtue of the nature of the wetlands and nature preserve status. Only 5.97 acres of the 19.7 acres will be rezoned and of the 5.97 acres a substantial portion is designated wetlands. The Town of West Seneca will reap a considerable benefit from the over 13 acres as a nature and wildlife preserve with designated public access. The proposed rezoning will eliminate and remedy the eyesore that has existed for a number of years by allowing a responsible company which has demonstrated strong ties to the town and has already substantially improved another piece of property along Clinton Street. This company will provide employment with high paying jobs and restore a derelict and neglected piece of property to the tax rolls while providing screening and a buffer area for the residents. Notice of the opportunity for the public comment was properly published and there was significant opportunity for the public to express their concerns and opinion, which they did. The protest petition was rejected as insufficient as it did not contain the requisite number of signatures of neighboring property owners.

Councilman Hart questioned if the calculations were done in conjunction with the attorneys from both sides.

Mr. Martin responded that he had indicated to both the attorneys how the calculations would be done and invited their comments. They both had the opportunity to meet with him, but he heard nothing from them.

Councilman Hart stated that the law requires 20 percent of the total land area within 100 feet and he understood Mr. Martin included a large vacant conservation area owned by the town.

Mr. Martin responded there is 55' from the corner of the driveway of the parcel being rezoned to the town owned parcel and including that town property in the calculation is supported by case law.

Councilman Hart stated that he was not sure this supported the claim but it is up to the residents of Lakeside Drive to challenge it in court.

12-B LEGAL ITEMS

2. Proofs of publication and posting of legal notice: "OF THE ADOPTED CHANGE IN THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2550 SENECA STREET, BEING PART OF LOT NO. 33, CHANGING ITS CLASSIFICATION FROM C-2 TO C-2(S), FOR USED CAR SALES." in the Town of West Seneca, received and filed. (Professional Automotive Services)
3. Proofs of publication and posting of legal notice: "OF THE ADOPTED RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM AUTHORIZING THE PURCHASE OF THREE (3) CAB AND CHASSIS TRUCKS WITH THREE (3) PLOWS AND THREE (3) DUMP BODIES FOR A TOTAL COST OF \$408,039.90" in the Town of West Seneca, received and filed.
4. Proofs of publication and posting of legal notice: "OF THE ADOPTED RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM AUTHORIZING THE PURCHASE OF FIVE (5) 2012 FORD F-250 XL, AND TWO (2) FORD F-250 XLTRUCKS AT A TOTAL COST OF \$165,676.84" in the Town of West Seneca, received and filed.

12-C TABLED ITEMS

1. Extension of Shared Assessor Agreement Motion by Councilman Hart, seconded by Supervisor Meegan, to remove this item from the table and receive and file it.

On the question, Councilman Hart commented that they are working on getting a performance and efficiency grant in place in the next couple of months and this will be very beneficial to the town.

Town Attorney Shawn Martin stated that the performance and efficiency grant will not only alleviate issues concerning the grant, but it will contain within the application and approval process the agreement with the Town of Elma.

Ayes: All Noes: None Motion Carried

2. Title change for Sarah Flattery from part-time Clerk Typist to full-time Recreation Leader Motion by Supervisor Meegan, seconded by Councilman Hart, to remove this item from the table and receive and file it.

Ayes: All Noes: None Motion Carried

12-D COMMUNICATIONS

1. Supervisor Meegan re Amended Resolution / Erie County Community Development Block Grant Motion by Supervisor Meegan to adopt the attached resolution amending the Erie County Community Development Block Grant (ECCDBG) agreement adopted at the July 9, 2012 Town Board meeting.

On the question, Councilman Hart stated that he believes the cost of each item should be delineated in the resolution. He further noted that Item #2 concerning construction of a four or five bay garage was not included in the June 23rd resolution and he questioned its approximate cost.

Town Engineer Steven Tanner stated the cost of the garage is estimated at \$300,000.

Councilman Hart did not feel the garage was necessary or that more than half the grant money should go toward it.

Councilman Rusinski questioned how the new figure of \$452,000 was reached, noting that the previous figure of \$400,000 did not include the cost of the garage.

Supervisor Meegan stated that Erie County sent a letter to all board members reflecting the change. The value given to them was \$452,000 and that is the total amount of money available.

Councilman Hart stated he would like to see a budget and commented that how the money is broken down is an important issue. He thought the board members should be consulted in more depth on what is going to be done on projects.

Supervisor Meegan stated the resolution is a wish list that lists as many items as possible and there is a budget.

Councilman Hart commented that the budget should have been provided and stated that he often does not know what is going on in the town unless he attends a meeting and asks questions.

Supervisor Meegan stated that is the unfortunate part of a downsized board since the board members are not able to talk to each other. She further stated that Mike Alspaugh of Erie County had forwarded information to all the board members.

Councilman Rusinski questioned where the money will remain if not used and if it will go back to the Local Development Corporation.

12-D COMMUNICATIONS

3. (continued)

On the question, Councilman Rusinski stated that the town needs to reserve the right of placement on public property.

Town Attorney Shawn Martin responded that the Army regulations are very specific and it cannot be placed on private property; it must be maintained on public property.

Councilman Rusinski understood but stated the town should reserve the right to place it where they choose on public property.

Ayes: All

Noes: None

Motion Carried
APPENDICES

4. Supervisor Meegan re Title change for Emily Josefiak to Secretary to the Supervisor

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to change the title of Emily Josefiak from part-time clerk to Secretary to the Supervisor at an annual salary of \$37,673.87 effective July 25, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Rusinski questioned if anything prohibits a relative of another town employee from being hired.

Town Attorney Shawn Martin stated that the Ethics Code would prohibit a board member from voting for one of their own family members, but not for the family member of another town employee.

Councilman Hart requested resumes on future hires and Councilman Rusinski requested that addresses be included.

Supervisor Meegan stated that Ms. Josefiak is a current part-time employee and her resume was attached to her application when she was hired last year.

Ayes: All

Noes: None

Motion Carried

5. Town Attorney re Independent Contractor Agreement Buffalo Niagara Riverkeeper

Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize the Supervisor to execute the attached independent contractor agreement with Buffalo Niagara Riverkeeper, noting that all fees paid to Buffalo Niagara Riverkeeper will be paid from the grant secured by them in a coordinated effort with the town last year.

12-D COMMUNICATIONS

5. (continued)

On the question, Councilman Hart asked for some background on this agreement.

Evelyn Hicks, Chairperson of the West Seneca Environmental Commission, stated that two years ago the town authorized the commission to apply for a grant from the National Fish and Wildlife Foundation to do remediation work at the Oxbow wetlands located at 2780 Clinton Street. Buffalo Niagara Riverkeeper had previously applied for and received a grant to start remediation. A baseline study was conducted as part of the original grant which expired in early 2011. The objective was to come up with an overall game plan for remediation. The Town of West Seneca had since applied for and was awarded another grant to implement the volunteer management plan that was identified under the initial grant. The second grant of \$60,670 starts this year and is basically a continuation of the first grant. Things such as digging out knotweed and over planting with native plant species to improve habitat and greenway along the creek are planned. As part of the grant there is a need for people to manage and implement it. The contract that goes along with the grant allows the hiring of independent contractors at no cost to the town. The Environmental Commission would like to hire Robin Drake as project coordinator and Margaret Wurster as project advisor. Both are employees of Buffalo Niagara Riverkeeper. If the town enters into the independent contractor agreement with Buffalo Niagara Riverkeeper it is expected that both people will work according to the work detail that is attached to the agreement. The language in the agreement is taken directly out of the grant previously approved by the town.

Supervisor Meegan recited changes to the agreement that Mrs. Hicks had requested as follows: 50% to be paid upon signing the contract, subject to grant funding availability; 25% to be paid upon receipt of mid-year report of March 2013; 25% to be paid upon receipt of final report of December 2013.

Mrs. Hicks stated that no funds will be released from the Town of West Seneca until the grant money has been received so the town will not be advancing any funds for this grant.

Councilman Hart questioned what the report standards are since receipt of additional funds is based on filing a report.

Mrs. Hicks stated that as with any grant that is awarded, the entity that awards the grant expects the grantee to meet certain benchmarks. She referred to reports that are scheduled quarterly, semi-annually and annually, asking the status of the work and ensuring that the grantee is on track.

Ayes: All

Noes: None

Motion Carried
APPENDICES

12-D COMMUNICATIONS

6. Town Engineer re Bid award for 2012 highway garage roofing project
- Motion by Supervisor Meegan, seconded by Councilman Hart, to award the bid for the highway garage roof to Weaver Metal and Roofing at their bid of \$398,000 for an SBS modified roofing system.

On the question, Councilman Hart stated he had a discussion with Town Engineer Steven Tanner earlier regarding his recommendation and noted that Highway Supt. Matthew English favors the lower bid from Sahlem's Roofing.

Town Engineer Steven Tanner explained why he favored Weaver's bid for the SBS modified system over Sahlem's bid for the EPDM system. Both systems are good and offer a 30 year warranty. The SBS modified system would be an inch of insulation installed over the top of the existing roof and the cross section, which has numerous layers of various types of roofing. Mr. Tanner thought the SBS modified system was a better quality than the EPDM system. He stated that both contractors come highly recommended, noting that Sahlem's Roofing has provided services to the town in the past. Mr. Tanner further stated that his objective and recommendation is based on the differential cost difference of \$14,000. In his opinion the SBS modified system is worth the additional cost, based on the additional quality received. After talking to representatives for both products, their independent studies provided different results. One study had SBS modified system being the better product and the other study had EPDM system being the better product. Mr. Tanner referenced another study he read which was based on formulas (overall maintenance requirements, energy savings, etc.) where the cost per square foot for both products is about equal. Mr. Tanner further stated that the price from Sahlem's Roofing of \$368,637 was based on standard insurance requirements. Sahlem's Roofing would need to add \$15,500 to their base bid to cover the additional insurance requirement costs in the spec book. Comparing Weaver Metal & Roofing's bid of \$398,000 to Sahlem's Roofing bid of \$384,143, the cost difference is approximately \$14,000.

Councilman Rusinski questioned if the SBS modified system is new technology.

Mr. Tanner responded that the SBS modified system has been around for a while, but it is newer than the EPDM system. Both systems have been found to be satisfactory and offer a 30 year warranty.

Motion by Councilman Hart, seconded by Councilman Rusinski, to amend the motion and award the bid for the highway garage roof to Sahlem's Roofing at their low bid of \$384,143 for an EPDM roofing system.

On the amended motion,

Ayes: All

Noes: None

Motion Carried

12-D COMMUNICATIONS

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| 7. Town Engineer re Bid award for 2012 highway garage façade project | Motion by Supervisor Meegan, seconded by Councilman Rusinski, to award the bid for the highway garage façade to Arrow Sheet Metal Works, Inc., 75 Thielman Drive, Buffalo, NY 14206 at their low bid of \$137,684.75 for the base bid and bid alternate A-1. |
| | Ayes: All Noes: None Motion Carried |
| 8. Highway Supt. re Bid award for compact wheel loader | Motion by Supervisor Meegan, seconded by Councilman Rusinski, to accept the bid of \$61,375 from Baschmann Services, Inc., 1101 Maple Road, Elma, NY 14059 for one (1) compact wheel loader, noting that funds are available in line item #002.5130.0202. |

On the question, Councilman Rusinski was concerned about receiving only one bid.

Highway Supt. Mathew English stated the bid request was advertised in the West Seneca Bee and he also notified vendors. He commented that more bids are received for equipment such as garbage trucks because there are five different bodies with one chassis, but he will rebid the equipment if requested.

Councilman Hart questioned where the specs come from and suggested opening it up further to get more bidders.

Mr. English stated specifications come from vendors and are generally written for one piece of equipment and if it is rebid the specs will remain the same. The option is provided for a prospective bidder to offer a comparable item to what is written.

Councilman Rusinski stated he would like this equipment rebid and more vendors contacted.

Town Engineer Steven Tanner commented that several vendors were notified when they bid the vector truck last year and only one bid was received. Specifications are received from different manufacturers and the language is written so that the specs are not specific to any one manufacturer.

Town Attorney Shawn Martin commented that this bid was advertised in accordance with General Municipal Law giving the Town Board the opportunity to reject any and all bids.

Motion by Councilman Rusinski, seconded by Councilman Hart, to reject the bid for the compact wheel loader and rebid this equipment.

Ayes: All Noes: None Motion Carried

12-D COMMUNICATIONS

9. Highway Supt. re Bid award for purchase of tractor loader backhoe
- Motion by Councilman Rusinski, seconded by Supervisor Meegan, to reject the bid for the tractor loader backhoe and rebid this equipment.

Ayes: All Noes: None Motion Carried

10. Highway Supt. re Bid award for purchase of Rear loading refuse trucks & packers
- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to award the bid for two (2) rear loading refuse trucks and packers (2013 Freightliner 114SD with Wayne Fury rear load packer) to Fleet Maintenance, 67 Ransier Drive, West Seneca, NY 14224 at their bid of \$166,684 each for a total of \$333,368.

On the question, Councilman Rusinski questioned if this was the lowest bid and Highway Supt. Matthew English stated that it was.

Councilman Hart commented on the number of bids received and all of the spec options. He questioned how this bid was put together.

Highway Supt. Matthew English stated that he reviewed all the specs with Town Attorney Shawn Martin and his head mechanic. The low bid happened to be the best spec.

Ayes: All Noes: None Motion Carried

11. Highway Supt. re Budgetary amendment request
- Motion by Supervisor Meegan, seconded by Councilman Hart, to increase appropriation line item #002.5130.0202 in the amount of \$896,000 with the source of funding from the Highway Equipment Reserve Fund in accordance with the five year capital equipment plan for the Highway Department.

On the question, Councilman Hart stated that earlier this year a \$2.5 million equipment reserve account was created to fund the highway equipment and he questioned how much money will be left in the Highway Reserve Fund.

Finance Director Laura Landers stated that some bids are coming in less and it is anticipated that all the money will not be spent. There will be approximately \$1.6 million left in the reserve fund after this amendment request.

Ayes: All Noes: None Motion Carried

12-D COMMUNICATIONS

12. Highway Supt. re Budgetary transfer request Motion by Supervisor Meegan, seconded by Councilman Hart, to approve a budgetary transfer request of \$3000 from Burchfield Acct. #001.7420.0445 to Highway Building Acct. #001.5132.0425.

On the question, Councilman Hart questioned why the money was being taken from the Burchfield account and Highway Supt. Matthew English stated that he estimated that line item will have a surplus at the end of the year.

Ayes: All Noes: None Motion Carried

13. Chief Gehen re Purchase requiring Town Board approval Motion by Supervisor Meegan, seconded by Councilman Rusinski, to authorize the purchase of eight (8) sets of Xtreme HP01 body armor from United Uniform Company at a cost of \$5740.

On the question, Councilman Hart questioned how long body armor lasts.

Chief Gehen stated that standard body armor is replaced every five years and each year a different group of officers receive new armor.

Ayes: All Noes: None Motion Carried

14. Chief Gehen re Attendance at NYS Chief's of Police training conference Motion by Supervisor Meegan, seconded by Councilman Rusinski, to authorize Chief Edward F Gehen to attend the 2012 NYS Chief's of Police training conference at Edgewood Conference Center in Alexandria Bay, New York, July 29 – August 1, 2012 at a cost not to exceed \$1091.

Ayes: All Noes: None Motion Carried

15. Chief Gehen re Attendance of D. Cotter, M. Caufield & T. Pratt at training conference Motion by Supervisor Meegan, seconded by Councilman Rusinski, to authorize Lt. Richard Cotter, Detective Mary Caulfield and Police Officer Tim Pratt to attend the New York Police Juvenile Officers Association 37th annual training conference at the High Peaks Resort in Lake Placid, New York, August 27 – 31, 2012 at a cost not to exceed \$3011.54.

Ayes: All Noes: None Motion Carried

12-D COMMUNICATIONS

16. Chief Gehen re Resignation of part-time Public Safety Dispatcher Anthony Andolina

Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the resignation of Anthony Andolina and terminate him as part-time Public Safety Dispatcher effective July 24, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart questioned if there is a new civil service list for public safety dispatchers.

Chief Gehen stated he had not been notified of a new list.

Supervisor Meegan stated that the new list was not out and it will be up to Chief Gehen to call for the list when available.

Ayes: All

Noes: None

Motion Carried

17. Chief Gehen re Status change for part-time Public Safety Dispatchers to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatchers Edward Jarka and Andrew Oscypala to part-time seasonal effective August 1 – 31, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

18. Chief Gehen re Termination of Crossing Guard Nicole Maw

Motion by Supervisor Meegan, seconded by Councilman Hart, to terminate Nicole Maw as part-time crossing guard effective July 24, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

19. 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 the property adjacent to the West Seneca Public Library along Union Road and Legion Drive on Saturday, August 25, 2012 from 9:00 A.M. to 3:00 P.M.

Ayes: All

Noes: None

Motion Carried

12-D COMMUNICATIONS

20. Town Clerk re Status change for part-time clerks L. Fischione & M. Pomana to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time clerks Laurine Fischione and Margaret Pomana to part-time seasonal effective August 13 – November 30, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

21. Director of Recreation, Youth & Sr. Services re Pay rate change for Pool Supervisor Matt Melski

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve a rate increase for part-time pool supervisor Matt Melski from \$10 per hour to \$10.60 per hour retroactive to May 1, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart questioned why this rate increase was retroactive to May 1st.

Director of Recreation, Youth & Senior Services Mary Josefiak stated there was some confusion with the salary and Mr. Melski was supposed to be hired at the same rate as the recreation supervisor.

Ayes: All Noes: None Motion Carried

22. Director of Recreation, Youth & Sr. Services re Appointment of part-time seasonal employees

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to appoint the following part-time employees in the Recreation Department effective June 1, 2012:

Candice Kogut – Youth Theatre - \$7.25 per hour
Christopher Fritschi – Lifeguard - \$8.00 per hour
Theresa Lombardo – Bus Driver - \$10.60 per hour
Ann Marie Koppel – Bus Driver - \$10.60 per hour

and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

12-D COMMUNICATIONS

23. Director of Recreation, Youth & Sr. Services re Termination of J. Keane & D. Lapore

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to terminate Jolynn Keane and Donna Lapore as coordinators of the YES/Youth Program effective June 30, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

24. Director of Recreation, Youth & Sr. Services re Title change for Marleah Martinez

Motion by Supervisor Meegan to change the title of Marleah Martinez to YES/Youth Program coordinator at an annual salary of \$20,000 effective July 23, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Motion failed due to lack of a second.

25. Town Justices re Retirement of Barbara Parisi

Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the retirement of Barbara A Parisi and terminate her as Senior Clerk effective July 31, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

26. Chief Gehen re Appointment of Thomas Gasiewicz as part-time Public Safety Dispatcher

Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Thomas E Gasiewicz as part-time Public Safety Dispatcher at a rate of \$10.95 per hour effective July 29, 2012 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

12-E WARRANT

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

General Fund - \$310,909.22; Highway Fund - \$192,969.96; Special Districts - \$25,854.91 (voucher #'s 73808 - 74158); Trust & Agency Fund - \$33,993.93 (voucher #'s 73460 - 74046); Capital Fund - \$530,422.77 (voucher #'s 73673 - 73964)

Ayes: All Noes: None Motion Carried

12-F REPORTS

- Jacqueline A Felser, Town Clerk's report for June 2012 received and filed.
- John A Gullo, Code Enforcement Officer's report & plumbing report for June 2012 received and filed.

ISSUES OF THE PUBLIC

STATUS OF SECURITY CAMERAS

Beverly Leising questioned if the security cameras had been installed.

Highway Sup't. Matthew English stated that the cameras were installed and four days later they captured a kid starting a fire at Harlem Road Park.

Chief Gehen commented that during a routine patrol at Harlem Road Park a small fire was spotted in a garbage container. After investigation and review of the video, three individuals were arrested for criminal mischief.

REZONING OF 2735 CLINTON STREET

Beverly Leising questioned if there was a lawsuit concerning the 2/3 majority vote for the rezoning of 2735 Clinton Street.

Town Attorney Shawn Martin stated that the rezoning was approved and any lawsuit concerning the rezoning will be against the Town Board's vote to approve it. The supermajority issue has not been addressed as to how it affects a downsized three member board.

Paula Minklei asked for clarification, noting that she thought it was going to court and a Judge would decide on the supermajority issue. Mrs. Minklei was very concerned about the rationalization of the vote and how it was carried out. She commented that no deliberation took place prior to voting and thought it was dangerous to say that the Master Plan is outdated.

Councilman Hart commented there is every indication that the homeowners will take this issue to court with Mr. Lorigo as their attorney.

Amy Carpenter questioned how much the 13 acres of land will cost the town.

Supervisor Meegan stated that the property will be acquired with a \$29,000 grant the town currently has.

ISSUES OF THE PUBLIC

REZONING OF 2735 CLINTON STREET (continued)

Karen Lucachik commented that she is disappointed in the vote on this rezoning and stated that the Town Board is the only committee that can allow changes to the Master Plan to continue.

DOG CENSUS

Amy Carpenter questioned the cost of postage for the dog census postcards and suggested bulk mailing.

Town Clerk Jacqueline Felser stated that mailing lists and labels are acquired from the Assessor's office and 5432 postcards were sent out at a cost of \$0.45 each. This resulted in at least 300 additional dogs being licensed. Mrs. Felser stated she will look into the cost and requirements of bulk mailing.

WELCOME PACKET

Amy Carpenter questioned the status of the welcome packets for new homeowners and commented that more communication is needed from the town with citizens. She would like to see the packet put on the town's website.

Councilman Rusinski stated that the packets will be going out effective August 1st. Every new homeowner will automatically receive one. The opening letter did include the town's web site address, but he thought it would be a good idea to include the packet online.

HOUGHTON COLLEGE PROJECT

Amy Carpenter questioned how many sewer taps will be allowed on the Houghton College parcel being developed by Mr. Young.

Code Enforcement Officer Jeffrey Schieber referred to an earlier Planning Board meeting where only preliminary sketch plans were submitted by Mr. Young.

Town Attorney Shawn Martin stated a concept plan was submitted that included incomplete taps. No engineering review or final schematics were included in the preliminary sketches.

Town Engineer Steven Tanner stated this is not an area where pre-existing taps were allowed. However, under the DEC consent order taps are allowed if developers agree to mitigation (4:1 peak flow analysis). The flow analysis is based on the facilities such as fixtures, number of residents, etc. All of this information will be reviewed once it is received.

ISSUES OF THE PUBLIC

PARKING BUMPERS

Amy Carpenter commented that some of the parking bumpers such as those located at Mill Road Park could use painting.

BEAUTIFICATION OF TOWN

Amy Carpenter suggested the town be proactive going forward. All boards (Town, Planning & Zoning) along with Engineering and Code Enforcement should get together and plan what they would like the image, look, and feel of the town to be. A plan going forward starts with a dialogue of all committees along with some input from the public.

Karen Lucachik commented on the appearance of other towns. East Aurora and Hamburg continue to apply for additional grants to keep improving their village/town image. She would like West Seneca to strive to continue improving its image.

Johanna Guenther commented that West Seneca is going downhill and needs improvement. Businesses along Seneca Street look horrible. Orchard Park is beautiful; every road including county roads are clean. Hamburg and Blasdell have also shown significant improvement. Mrs. Guenther asked and encouraged the board members to do something about the town's appearance.

STATUS OF AMERICORPS PAYMENTS

Karen Lucachik questioned the status of the AmeriCorps payments.

Finance Director Laura Landers responded that two payments were received in June.

Town Attorney Shawn Martin stated they had not received any news on the sale of the School Street property.

PARKING AT LEGION

Karen Lucachik questioned the status of parking spaces at the American Legion Post.

Supervisor Meegan stated that this is still being worked on with NYS Parks & Recreation through the State of New York and the federal government. The town is trying to close out a grant that has been sitting around since the year 2000.

ISSUES OF THE PUBLIC

SECRETARY TO SUPERVISOR

Karen Lucachik commented that \$37,673 is a lot to pay a secretary and questioned if the position is civil service. Supervisor Meegan responded that this is an appointed position at the discretion of the Supervisor.

HIRING PRACTICES

Karen Lucachik commented on the town's hiring practices and stated that positions should be posted and filled with qualified people, noting that the town has a history of filling positions with people who are not qualified when they are hired.

WEST SENECA DEVELOPMENT CORPORATION

Karen Lucachik questioned who specifically makes up the West Seneca Development Corporation. She questioned the member's names, when they meet, whether or not meetings are open to the public and if they are part of the industrial park.

Supervisor Meegan stated the members of the West Seneca Development Corporation are Dr. Crawford, Athletic Director Jim Higgins, the Vice Principal from East Senior, Supervisor Meegan, Town Attorney Shawn Martin, Finance Officer Patrick Clancy, and Chamber Members John Clouden, Dale McCabe & John Morrison. The concept of this group came from the idea of enhancing, developing and enticing business to the industrial park.

Town Attorney Shawn Martin stated that loans were administered to occupants of the industrial park, the last of which was paid off in late 2009 or early 2010.

Mrs. Lucachik questioned who runs the industrial park.

Supervisor Meegan stated it is owned and run by the Nanula family and they are very open and willing to work with developers.

COUNTY ROADS IN TOWN

Linda Toy referred to certain intersections in town questioned if the town could encourage Erie County to clean up the sides of county roads.

Supervisor Meegan stated that the county is called when weeds become intrusive.

Councilman Hart commented that a lot of intersections and roads mentioned are state highways.

ISSUES OF THE PUBLIC

SMOKE TESTING

Beverly Leising questioned if smoke testing is taking place throughout the town or just in Sewer Districts 20, 13 & 5.

Town Engineer Steven Tanner stated there is a timeline and map on the town's website showing all the areas where testing is occurring. Currently testing is taking place in Sewer District #13 and Sewer District #20 will be next.

Mrs. Leising understood that Sewer District #6 was smoke tested two weeks ago.

Mr. Tanner stated it is possible some testing took place in Sewer District #6 recently, but he didn't think so. There are sewer problems throughout the town and priority areas were determined accordingly.

BULLIS ROAD RESURFACING

Domonic Colosimo complimented the town on the excellent resurfacing job on Bullis Road and voiced his concern regarding activity at 509 Bullis Road, referring to burn out marks, mud and vehicles on the road. There are also safety issues with people exiting the property.

Chief Gehen stated that certain offenses have to be witnessed in order to take action. A police car will respond if called and a summons will be issued if they are caught. Chief Gehen suggested residents contact his office so they can discuss options in further detail.

Ken Herberger also thanked the Town Board and Highway Department for their quick response in repaving Bullis Road.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

EXECUTIVE SESSION

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to recess to Executive Session at 8:40 P.M. to discuss one litigation matter with Town Attorney Shawn Martin and one personnel matter with Director of Recreation, Youth & Senior Services Mary Josefiak.

Ayes: All

Noes: None

Motion Carried

The board members returned from Executive Session at 9:20 P.M.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

SENECA CITY LINE INITIATIVE

Chief Gehen stated they have been continuing the Seneca Street initiative, knocking on doors and talking with people. The program has been successful and will continue, extending to Harlem Road and other areas of town.

POLICE PAMPHLET

Chief Gehen provided the Town Board with a welcoming pamphlet from his department which includes some of the resources offered by the police.

DEPARTMENT HEAD WORK SESSION

Councilman Hart stated he would like to have a monthly work session with department heads to help keep the board members better informed with what is going on in their offices.

Supervisor Sheila Meegan commented that she is in favor of work sessions and suggested scheduling one for August 8th.

INSURANCE CONSULTANT

Councilman Hart stated he would like a report from the insurance consultant employed by the town.

JOB OPENINGS WITH JW DANFORTH

Councilman Hart questioned if the jobs openings with JW Danforth had been posted on the town's website.

Town Clerk Jacqueline Felser stated the jobs available with JW Danforth were posted on the town's website under "job openings."

NEW HOMEOWNER PACKETS

Councilman Rusinski stated the new homeowner packets will be out August 1st.

HISTORIAN JAMES PACE'S ARTICLE

Supervisor Sheila Meegan commented on Historian James Pace's article in the Western New York Heritage Magazine. The article depicts the history of West Seneca/Ebenezer and will be available on the town's website.

**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

MATT ANDERSON DAY

Supervisor Sheila Meegan invited residents to a ceremony on Friday, July 27th, at 3 P.M. honoring West Seneca Olympian Matt Anderson.

ADJOURNMENT

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 9:30 P.M.

Ayes: All

Noes: None

Motion Carried

JACQUELINE A FELSER, TOWN CLERK

Authorizing Resolution

At a regular meeting of the Town of West Seneca Town Board, held on July 23, 2012, the Town Board authorized Sheila M. Meegan, Town Supervisor to sign, submit and execute a contract with the Erie County Community Development Block Grant (ECCDBG) for the following project:

\$452,790.45 to make the following improvements at the Town of West Seneca Senior Center for the sole purpose of improving facilities for senior citizens:

1. Construction of 20 additional parking spaces to increase available parking by approximately 13%;
2. Construction of a four or five-bay van garage with storage space for maintenance equipment;
3. Drainage and retaining wall improvements to the rear of the building;
4. Purchase of three vans, with one retrofitted to provide wheelchair access and transportation;
5. Purchase of kitchen equipment for the Stay-Fit Nutrition Program at the West Seneca Senior Center; and,
6. Purchase of fitness equipment for the Senior FitnessCenter.

Jacqueline Felser, Town Clerk

WHEREAS, the New York State, Department of State (DOS) is soliciting grant applications for the Local Government Performance and Efficiency Program (LGPEP), to provide performance awards for existing cost savings actions that are substantial, measurable and transformative, and

WHEREAS, the Town of West Seneca and the Town of Elma have implemented a program to share the services of an Assessor, thereby resulting in reoccurring savings to taxpayers of both communities, and

WHEREAS, the Town of West Seneca and the Town of Elma desire to submit a grant application titled, "The Town of Elma and the Town of West Seneca Shared Assessor Program" to the New York State Department of State Local Government Performance and Efficiency Program and,

WHEREAS, the Town of Elma will serve as the designated Lead Agency, representing the two municipalities and entering into a contract with the New York State, Department of State on behalf of the Town of West Seneca and the Town of Elma upon award of the grant;

NOW THEREFORE, BE IT

RESOLVED, that the West Seneca Town Board agrees to designate the Town of Elma as the Lead Agency for the purposes of submitting the grant application and administering the grant award, and BE IT FURTHER

RESOLVED, that the West Seneca Town Board hereby designates Dennis M. Powers, Elma Town Supervisor, (and his designee), to submit an application for the Town of Elma-Town of West Seneca Shared Assessor Program to the Local Government Performance and Efficiency Program, BE IT FURTHER

RESOLVED, that Dennis M. Powers is hereby authorized to execute all financial and/or administrative processes relating to the implementation of the program on behalf of the Town of West Seneca and BE IT FURTHER

RESOLVED, that, should it be necessary, the Supervisor of the Town of West Seneca, Sheila M. Maegan, be and hereby is authorized to execute any and all documents to effectuate the terms of the grant.

WHEREAS, the West Seneca Veteran's Committee provides invaluable services to the Town and its constituents; and

WHEREAS, the West Seneca Veteran's Committee has sought to obtain a piece of outdated and obsolete military vehicle and/or armament from the Army Donations Program Office in the Integrated Logistics Support Center of the United States Army; and

WHEREAS, the Army Donations Program Office in the Integrated Logistics Support Center of the United States Army has advised that in order to obtain a piece of outdated and obsolete military vehicle and/or armament a resolution from the Town Board is necessary outlining that the Town will assume all responsibility for the upkeep and safety of the piece of outdated and obsolete military vehicle and/or armament and that it will be placed on public property;

NOW THEREFORE, BE IT RESOLVED THAT:

The Town of West Seneca hereby provide a resolution to the Army Donations Program Office in the Integrated Logistics Support Center of the United States Army that it supports the efforts of the West Seneca Veteran's Committee to seek a piece of outdated and obsolete military vehicle and/or armament;

BE IT FURTHER RESOLVED, that The Town of West Seneca hereby agrees and acknowledges that the piece of outdated and obsolete military vehicle and/or armament be kept on public property and never be placed on private property; and

BE IT FURTHER RESOLVED, that The Town of West Seneca hereby agrees and acknowledges that it will assume all responsibility for the upkeep and safety of the piece of outdated and obsolete military vehicle and/or armament; and

BE IT FURTHER RESOLVED, that The Town of West Seneca hereby sends this Resolution to the Army Donations Program Office in the Integrated Logistics Support Center of the United States Army in full support of the West Seneca Veteran's Committee's attempt to secure a piece of outdated and obsolete military vehicle and/or armament.

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement"), effective _____, 20____, (the "Effective Date") is by and between the Town of West Seneca and Buffalo Niagara Riverkeeper ("Contractor").

WITNESSETH:

WHEREAS, the Company desires to engage Contractor to perform advisory services for the Company; and

WHEREAS, Contractor agrees to provide such services upon the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Services. Company hereby engages Contractor to provide the services described on any Statement of Work ("Statement of Work") entered into and signed by the Company and Contractor. Each Statement of Work entered into and signed by the parties shall be deemed expressly incorporated into and subject to the terms and conditions of this Agreement. See attached Statement of Work.

2. Compensation. Company will compensate Contractor pursuant to the terms of the applicable Statement of Work.

3. Term. This Agreement shall become effective on the Effective Date and shall continue for a term as specified in accordance with the Statement of Work.

4. Warranty. Contractor represents and warrants to Company that Contractor will provide all services under each Statement of Work in a timely and professional manner and in accordance with all federal, state and local laws, rules and regulations applicable to such services.

5. Termination.

5.1. Termination by the Company. Company may terminate any then uncompleted Statement of Work or this Agreement (which will include any then uncompleted Statement of Work), at any time for any reason by providing Contractor with written notice of termination. Company will pay Contractor for services actually performed to the date of termination at the rates set forth in any Statement of Work being terminated, provided that at the time of such termination, Contractor is not in breach of this Agreement or any of the terms of any applicable Statement of Work then in effect.

5.2. Termination by Contractor. Contractor may terminate this Agreement by providing Company with thirty (30) days written notice of termination. Such termination shall be effective on the earlier of the date on which: (i) Company's client accepts completion of each

Statement of Work which was not completed at the time of the notice of termination, or (ii) Company elects to terminate the uncompleted Statement of Work.

6. Non-exclusive License. Company grants to Contractor a limited, non-exclusive license to use certain of the Company's information, documentation and technical data that is provided by Company to Contractor at Company's sole discretion ("Company Materials") in connection with Contractor's services pursuant to an uncompleted Statement of Work. The license granted pursuant to this Section 6 shall be in effect only until the Statement of Work is completed or otherwise terminated prior to completion.

7. Ownership. Contractor agrees that all work, including developments, designs, inventions, improvements, trade secrets, trademarks, copyrightsable subject matter or proprietary information which the Contractor makes or conceives (the "Work") pursuant to the Agreement or any Statement of Work shall be considered to be "work made for hire" and shall be owned by the Company. In the event that any such Work, or portion thereof, is not construed to be a "work made for hire," Contractor hereby assigns to the Company all right, title and interest in such Work or portion thereof. Contractor agrees to execute any documents and take such other actions that the Company may consider necessary or desirable to protect, enforce or perfect the Company's rights and interests in the Work.

8. Confidentiality. Contractor acknowledges that during the course of this Agreement, Contractor will be exposed to and have access to Confidential Information of the Company and its clients. Contractor agrees to maintain in confidence and will not, without Company's prior express written consent, disclose to anyone or use in any way, any Confidential Information while this Agreement is in effect and after the Agreement is terminated or expires, except for the limited purpose of performing its obligations under this Agreement. Contractor shall return to Company all Confidential Information and all other property of Company upon the termination or expiration of this Agreement, or at such other time or times as may be required by the Company. For purposes of this Agreement, "Confidential Information" shall include Company Materials, trade secrets, know-how, formulas, patterns, compilations, manuals, programs, devices, methods, techniques, processes, discoveries, inventions, marketing information, business strategies, compensation information and any other information (whether or not in writing) which may be useful or have actual or potential economic value to the Company and which is not generally available to the public.

9. Non-Solicitation. Contractor will not solicit, in any way and for any purpose, any Company client for whom Contractor performs any services pursuant to a Statement of Work for two (2) years following the completion of the applicable Statement of Work without Company's prior written consent. The parties acknowledge and agree that the foregoing restriction shall also apply to any Statement of Work that is terminated prior to completion, regardless of the reason for termination.

10. Injunctive Relief. Survival. Contractor acknowledges and agrees that any breach or threatened breach of Sections 5, 6, 7, 8 and/or 9 of this Agreement by Contractor will result in irreparable harm to the Company for which the Company will have no adequate remedy at law. Contractor therefore consents to the issuance by any court of competent jurisdiction, without the requirement of filing or posting a bond, of an injunction or restraining order in favor of the

Company enjoining any such breach or threatened breach by Contractor of this Agreement or any part thereof, without prejudice to any other rights or remedies to which the Company may be entitled to at law or in equity. The parties agree that Sections 5, 6, 7, 8, 9 and 10 of this Agreement will survive any termination of this Agreement.

11. Indemnification. Contractor shall defend, indemnify and hold harmless Company, its officers, members, managers, employees, agents, successors and assigns from and against any and all claims, suits, costs or expenses, including without limitation reasonable attorney's fees, arising out of or related to the performance of services by Contractor or its agents or employees in connection with this Agreement, including without limitation, the negligence or willful misconduct of Contractor or its employees or agents, provided that this indemnification shall not apply to the extent that claims or damages arise out of the negligent or willful misconduct of Company.

12. Insurance. Contractor is responsible for its own insurance coverage and understands and acknowledges that neither Contractor nor its employees are covered under any of the Company's insurance policies, including without limitation unemployment insurance, workers' compensation, professional liability and/or general liability insurance, and hereby waives coverage thereunder. Contractor shall obtain, at its own expense, comprehensive general liability insurance in the amount set forth on the applicable Statement of Work. Such policy shall name the Company as an additional insured. Contractor agrees to furnish to the Company a certificate evidencing such policy prior to the commencement of any services to be provided under any applicable Statement of Work.

13. Independent Contractor Relationship. Contractor acknowledges and agrees that its relationship to the Company in performing the services required of it under this Agreement or any applicable Statement of Work is that of an independent contractor. Nothing herein shall be construed to be inconsistent with Contractor's status as an independent contractor or as creating an employer/employee relationship, partnership or joint venture between the Company and Contractor. Contractor shall have no authority to act for or on behalf of the Company, or to bind the Company in any manner, without the express written consent of the Company. Contractor acknowledges and agrees that the fees or other amounts the Company pays Contractor under this Agreement shall not be considered salary and neither Contractor nor its employees are entitled to participate in any benefit plans that the Company may provide to its employees, including but not limited to, any health insurance, pension, bonus, profit sharing, or similar benefits, nor is Contractor entitled to unemployment insurance or workers' compensation benefits through the Company.

14. Taxes. Contractor shall be responsible for the payment of all payroll taxes or other such, in performing the services hereunder and hereby agrees to indemnify and hold the Company harmless from and against any and all loss, cost or expense incurred by the Company due to Contractor's failure to withhold any such taxes or to make such contributions in respect of any fee Company pays to Contractor. The Company shall provide Contractor with the appropriate 1099 Forms as required by the Internal Revenue Service, and shall be responsible for complying with any reporting obligation as may be required of it under any applicable federal, state or local laws, rules, regulations or ordinances, but shall have no responsibility for any reporting requirements relating to Contractor's obligations under this Agreement and/or

Contractor's employees.

15. Notices. Any notice required or permitted to be given under this Agreement will be sufficient if in writing and personally delivered or sent by first-class or overnight mail to the address set forth above. Either party may, by notice in writing to the other party, change the address to which notices to that party are to be given.

16. Waiver. The waiver by one party of the breach of any provision of this Agreement by the other party will not operate or be construed as a waiver of any subsequent breach by that party.

17. Amendment; Assignment. No amendment of this Agreement or any Statement of Work will be valid unless it is in writing and duly executed by the parties. This Agreement and any applicable Statement of Work may not be assigned by either party without the prior written consent of the other party.

18. Governing Law. This Agreement will be construed in accordance with and governed by the laws of the State of New York.

19. Severability. The invalidity or unenforceability of any provision in this Agreement will in no way affect the validity or enforceability of any other provision.

20. Entire Agreement; Binding Effect. This Agreement is the entire agreement between the parties and supersedes any and all prior agreements and understandings between the parties. This Agreement will inure to and be binding on the parties, their heirs, representatives, successors and assigns.

21. Headings. The headings used in this Agreement are for convenience of the parties and will not affect the meaning or interpretation of this Agreement.

22. Venue; Attorney's Fees. Any suit or action with respect to this Agreement must be filed in Erie County, New York and the prevailing party will be reimbursed by the non-prevailing party for all attorney's fees, costs and expenses incurred in connection with the suit or action.

23. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first written above.

COMPANY:
Town of West Seneca

CONTRACTOR:
Buffalo Niagara Riverkeeper

By: _____
(Title)

By: Jill Gdula
(Title) Executive Director

STATEMENT OF WORK

Services:

Buffalo Niagara Riverkeeper as Contractor will provide the following services to the Town of West Seneca at the Town-owned portion of the oxbow wetland on Buffalo Creek off Clinton Street near Harlem Road:

Project Advisor:

- Assist the Project Manager with NFWF grant logistics including program scheduling, documentation and reporting.
- Advise/assist the Project Coordinator on conservation activities needed to complete Year 2 of the Oxbow Restoration Plan (see below).

Project Coordinator:

- Complete Year 2 activities as outlined in the 2011 Oxbow Habitat Restoration Plan including:
 - o Work to reduce Japanese Knotweed and Common Reed to <1% of plant composition on Town land
 - o Make progress towards increasing native plant composition to 70%
 - o Monitor and maintain wetland faunal species as compared to baseline.
 - o Support efforts to increase suitable wildlife habitat in adjacent parcels by at least 10% through acquisition and/or partnerships with landowners
- Support development of outreach programs/processes to oxbow neighbors, community residents and Town officials to enhance stream corridor conservation efforts in the Buffalo River Watershed
- Create an infrastructure of trained volunteers, equipment and materials for ongoing stewardship of the oxbow and other natural areas in the Town of West Seneca's Buffalo River tributary corridors.

Term:

The project term is March 15, 2012 – August 14, 2013

Compensation

Project Advisor - 156 hours at \$40./hour: \$6,240.

Project Coordinator - 780 hours at \$25/hour: 19,500.

Total: \$25,740.

50% to be paid upon signing contract, subject to grant funding availability
25% to be paid upon receipt of mid-year report, March 2013
25% to be paid upon receipt of final report, December 2013