

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 led by Councilman Hart.

ROLL CALL: Present - Sheila M. Meegan Supervisor
Eugene P. Hart Councilman
William P. Hanley, Jr. Councilman

Absent - None

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

22-A MINUTES TO BE APPROVED

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve Minutes #2019-21 of October 21, 2019.

Ayes: All Noes: None Motion Carried

22-B HELD OVER PUBLIC HEARING

1. Re: "ADOPTION OF THE 2020 TENTATIVE BENEFIT BASIS BUDGET & 2020 TENTATIVE AD VALOREM BUDGET" in the Town of West Seneca.

Supervisor Meegan advised the public hearing is being held open for receipt of further comments.

22-C 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 PERSONS INTERESTED IN CREATION OF ELECTRIC LIGHTING DISTRICT #68 – ROYAL COACH ROAD/DEER CHASE ROAD" 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

A resident of Royal Coach Road questioned why the residents were not notified there would be an increase in their taxes if the lighting district is approved, noting they signed a petition but were not told about the increase.

22-C LEGAL NOTICES

1. (continued)

Town Attorney Tina Hawthorne advised the first page of the petition stated the anticipated cost to the residents for the project. The estimate is \$142,000 which would cost a homeowner \$250 annually for 15 years as well as a \$15 annual maintenance fee. Based on the resident's claims that this information was not disclosed when the petition was circulated, she recommended this item be tabled for further investigation.

Ken Hanson stated he circulated the petition and spoke with all the residents. He gave them the petition to read and some, including the resident who spoke, did not want to read it or did not want anything to do with it. Mr. Hanson noted that both streets were included on the recommendation of the town as it would be more cost effective.

Mrs. Hawthorne stated the Assessor's office validated the signatures that were submitted. The total assessed value of the entire district is approximately \$3.7 million; those that signed in favor of the lighting district represented \$2.3 million in assessed valuation and those opposed represented \$1.3 million in assessed valuation. Mrs. Hawthorne advised that approval is subject to a permissive referendum and could be put to a vote if a petition is filed in accordance with the timeframe prescribed by law.

Supervisor Meegan suggested Mr. Hanson go back to the residents and advise them of the cost per year.

Motion by Supervisor Meegan, seconded by Councilman Hart, to table creation of Electric Lighting District #68 – Royal Coach/Deer Chase Road, in the Town of West Seneca.

Ayes: All Noes: None Motion Carried

2. Motion by Supervisor Meegan, seconded by Councilman Hart, that proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO HEAR ALL PERSONS INTERESTED IN ADOPTION OF LOCAL LAW NO. 5 FOR THE YEAR 2019, AMENDMENT TO CHAPTER 13, CODE OF ETHICS" 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

22-C LEGAL NOTICES

2. (continued)

Ethics Board member Theresa Funk gave the attached power point presentation outlining the additional proposed amendments to the Ethics Code since the August 12, 2019 public hearing. She further commented on what is involved in creating an independent ethics board going forward including selection of members, funding and enforcement of decisions.

Councilman Hanley questioned removal of a member by cause. Mrs. Funk stated that terms apply to members, but a member cannot be removed during their term without cause.

Chief Denz commented on the bargaining unit contracts and discipline procedures and questioned the possibility of a double jeopardy situation with regard to the proposal for additional discipline and financial penalties imposed by the Ethics Board.

Supervisor Meegan commented on the implementation of the original Code of Ethics and the resistance from the unions at that time. She suggested tabling this item until the areas of concern can be further examined.

Town Attorney Tina Hawthorne commented there is a potential for grievances being filed by the unions with regard to double jeopardy, 5th Amendment rights and violation of contracts. She would like the language to be reviewed in order to achieve the goals of this amendment without leaving the town in a vulnerable position.

Ethics Board Attorney Jon Minear stated the Ethics Board members had to investigate an ethics complaint earlier this year and did not have the power or ability to enforce their requests for the information they needed. Adding a financial sanction is one way to afford the board more compliance as its purpose is to make the government of the town more transparent by focusing on ethics code violations. He acknowledged the police have their disciplinary procedures and did not see double jeopardy as an issue. Mr. Minear further noted the Ethics Code is enforceable on all town employees.

A resident commented on Section L under Standards of Conduct and the addition of "no use of town property for political means," suggesting an exception be added to recognize that early voting takes place on town property.

Motion by Supervisor Meegan, seconded by Councilman Hanley, to table Local Law No. 5 of the year 2019 – Amendment to Chapter 13, Code of Ethics, in the Town of West Seneca.

Ayes: All

Noes: None

Motion Carried

22-D PUBLIC COMMENTS ON COMMUNICATIONS

- A resident referred to Item #5 and questioned/commented on the following:
 - ✓ Incorrect date on Ethics Board meeting minutes
 - ✓ Ethics Board entered into executive session to discuss an ethics complaint in violation of the Open Meetings Law - Town Attorney Tina Hawthorne stated opinions exist for both arguments and the newest advisory opinions defend the position that the Ethics Board is not an open committee.
 - ✓ Absence of the vote in the minutes and what violation of the ethics code the advisory refers to - Ethics Board Attorney Jon Minear stated the Ethics Board cannot discuss complaints in an open public meeting; and therefore, they recessed to executive session. The Whistleblower Policy also protects the person making the complaint.

22-E COMMUNICATIONS

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| 1. Supervisor Meegan re Intermunicipal Snow Removal and Ice Control agreement | Motion by Supervisor Meegan, seconded by Councilman Hanley, to adopt the attached resolution entering into the 2019–2020 Snow Removal and Ice Control Agreement with Erie County and direct Town Attorney Tina Hawthorne to review and execute the contract. |
| | Ayes: All Noes: None Motion Carried
APPENDICES |
| 2. Supervisor Meegan re Creation of Principal Personnel Clerk title | Motion by Supervisor Meegan, seconded by Councilman Hanley, to create the position of Principal Personnel Clerk per approved PO-17 from Erie County Personnel and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel. |
| | Ayes: All Noes: None Motion Carried |
| 3. Councilman Hanley re Resignation of Amy Kobler from West Seneca Environmental Commission | Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the resignation of Amy Kobler from the West Seneca Environmental Commission effective October 22, 2019. |
| | Ayes: All Noes: None Motion Carried |
| 4. Councilman Hanley re Appointment of Tracy Skalski to West Seneca Environmental Commission | Motion by Councilman Hanley, seconded by Councilman Hart, to appoint Tracy Skalski to the West Seneca Environmental Commission to fill the remainder of the term vacated by Amy Kobler, noting the term is effective until December 31, 2019. |
| | Ayes: All Noes: None Motion Carried |

22-E COMMUNICATIONS

5. Town Attorney re Ethics Board advisory opinion Motion by Supervisor Meegan, seconded by Councilman Hanley, to adopt the following resolution accepting the Ethics Board advisory opinion concerning certain actions taken by the Citizens Budget Advisory Committee:

WHEREAS, the Town of West Seneca Ethics Board received a complaint with respect to certain actions taken by the Citizens Budget Advisory Committee's (hereinafter referred to as Committee) use of a private, closed Facebook group that does not include all its members and includes a non-member of the Budget Committee who is currently a political candidate; and

WHEREAS, the Ethics Board determined that the Committee is a public entity established with the purpose of conducting meetings and deliberations open to the public; and

WHEREAS, the Ethics Board further determined that the Committee should be operating in an open and transparent manner as a part of the Town Government and not through a private, closed Facebook Group, which fails to include every member of the Committee and includes a non-member of the Committee who is currently a political candidate; now, therefore, be it

RESOLVED, the West Seneca Town Board accepts the recommendation of the Ethics Board that the Committee shall immediately cease communicating via their private, closed Facebook Group and shall shut down the private Facebook Group immediately. The Committee shall conduct all business in an open and transparent manner.

Ayes: All Noes: None Motion Carried

6. Town Justices re Resignation of William Matalonis Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the resignation of Court Clerk William Matalonis effective November 9, 2019 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

7. Recreation Supervisor re Termination of Connor Schara and Jack Vanderwerf Motion by Supervisor Meegan, seconded by Councilman Hanley, to terminate part-time Recreation Attendants Connor Schara and Jack Vanderwerf effective November 4th, 2019 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

22-E COMMUNICATIONS

- 8. Recreation Supervisor re Title change for Kelly Linder to part-time Recreation Attendant

Motion by Supervisor Meegan, seconded by Councilman Hart, to reappoint and change the title of Kelly Linder from Recreation Supervisor/Pool Supervisor to part-time Recreation Attendant at her current rate of pay of \$14.50 per hour effective November 4, 2019 – June 1, 2020 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel, noting this position will be paid from account line 001.7140.0149, Salary of Laborers – Part-time account.

Ayes: All Noes: None Motion Carried

- 9. Recreation Supervisor re Section VI NYSPHSAA

Motion by Supervisor Meegan, seconded by Councilman Hanley, to authorize the Supervisor to execute the necessary documents to enter into an agreement with Section VI, NYSPHSAA located at 365 Harlem Road for use of the West Seneca Ice Rink.

Ayes: All Noes: None Motion Carried

- 10. Director of Finance re Provisional appointment of Jaimie Kaminski to Principal Personnel Clerk

Motion by Supervisor Meegan, seconded by Councilman Hart, to provisionally appoint Jaimie Kaminski to the title of Principal Personnel Clerk in the Finance Department effective November 4, 2019, Group 5, Step 4, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

- 11. Chief Denz re Status change for Matthew Greenan & Norman Brem to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time Public Safety Dispatchers Matthew Greenan and Norman Brem to part-time seasonal effective November 1 – 30, 2019 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

22-F APPROVAL OF WARRANT

Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve the vouchers submitted for audit, chargeable to the respective funds as follows: General Fund - \$360,925.73; Highway Fund - \$115,104.31; Sewer Fund - \$8,995.22; Gas Conversion - \$123.17; Electric Lighting - \$907.77 Capital Fund - \$80,580.60 (vouchers 7845 - 8482)

Ayes: All

Noes: None

Motion Carried

ISSUES OF THE PUBLIC

- A resident commented on the posting of Ethics Board meetings and going into executive session - Ethics Board member Theresa Funk stated all meetings are posted and advertised as open to the public, but executive sessions are not.
- A resident commented on the November 7th Industrial Park Review Committee meeting and the application from Raine Logistics, noting the business does not state what they will be shipping and/or storing. Code Enforcement Officer Jeffrey Baksa suggested the resident contact Code Enforcement Officer Jeffrey Schieber with any questions on this project.
- Beverly Leising stated she is continuing her work with Seneca Manor Nursing Home and donations are still being accepted to assist the residents.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

RECREATION SUPERVISOR LAUREN MASSET

- Breakfast with Santa is December 8th; tickets are \$10 per person and are on sale November 18th – 25th while supplies last
- Hiring part-time recreation attendant; must be 18 years of age or older
- Several free fall and winter programs for youth, teens and adults are available and are listed on the Youth and Recreation page of the town website as well as social media sites

CHIEF DENZ

- Overnight parking ban begins Friday, November 15th at midnight through March 15, 2020

TOWN CLERK JACQUELINE FELSER

- Town Clerk elect Amy Kobler will be interviewing for a full-time cashier position; the job description will be posted on town's website

COUNCILMAN HANLEY

- Kate Lockhart of WNY Law Center attended the afternoon work session and gave an update on the zombie homes situation; number of zombie homes has been reduced from 100 to 23

WEST SENECA COMMUNITY CENTER
1300 Union Road
West Seneca, NY 14224

TOWN BOARD PROCEEDINGS
Minutes #2019-22
November 4, 2019
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PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

SUPERVISOR MEEGAN

- Veterans Day ceremony will be held November 11th at 11 A.M. in the gym in the Community Center

ADJOURNMENT

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 8:20 P.M.

Ayes: All

Noes: None

Motion Carried



JACQUELINE A FELSER, TOWN CLERK

ETHICS CODE UPDATE



ETHICS COMMITTEE – 11/4/2019



CODE REVISIONS BASED ON FEEDBACK



- Presented 8/12/2019
- Ethics Board presented proposed changes to Ethics code for the town
- Public feedback was documented
- Ethics Board reviewed comments and inserted additional changes based on the public feedback and experiences of the Board since the original presentation.



LEGISLATIVE INTENT



- Added a statement to clarify that the Ethics code is enforceable for all Town officials, officers and employees
- Also added a statement that regardless of acknowledgement or acceptance of the code, it remains enforceable.

DEFINITIONS/TERMS



- Updated existing definitions based on feedback
 - Relative – added grandparent and grandchild
 - Recuse – Revised to include not just abstaining but from also influencing in any official action

STANDARDS OF CONDUCT



- Section E – gift value changed from \$75 to \$25 to coincide with NY State code
- Section L – Use of town property – added no use for political means
- Section M – Can not require, authorize or influence participation or contribution to a political committee or campaign.
- Section O – 2 hours of annual Ethics training required for all Ethics Board members
- Section P – Ethics code will be presented annually to all Town officials, board members, employees and volunteers.



PENALTIES

- Added (3) – Recommend a civil fine, not to exceed \$10,000.00 for each violation, upon a Town Official, Board Member, Employee or Volunteer found guilty of a violation of this code. Such fine shall be payable to the Town.
- Added (4) – Assess a financial sanction up to \$200.00 per day and/or suspend without pay for noncompliance to reasonable requests of the Ethics Board during an investigation, which would include, but not be limited to, failure to appear at a scheduled hearing; or failure to produce documents or information material and relevant to the investigation. Such sanction shall be payable to the Town. If a sanction is assessed under this section, it shall be a final determination of the Ethics Board. The aggrieved party may challenge such determination in New York State Supreme Court.

WHISTLEBLOWER POLICY



- Section C – Once a Complaint has been submitted, the Ethic Board will investigate the allegations of the Complaint. In conducting any such investigation, the Ethics Board may administer oath or affirmations, issue subpoenas pursuant to Article 23 of the New York Civil Practice Law and Rules, compel witness attendance and require the production of any books or records which it may deem relevant and material. The Ethics Board shall require clear and convincing evidence before determining that a violation has occurred.

COMPOSITION OF THE ETHICS BOARD



- Removed – that Ethics Board serves at the pleasure of the Town Board
- Added – An Ethics Board member can only be removed for cause

RECOMMENDATIONS



- Today
 - Requesting the Town Board to approve this version of the Ethics Code as it is presented in this hearing
 - This updated code will greatly improve the ability of the Ethics Board to set the standards and enforcement necessary to move forward
- Future
 - Ethics Board – Independent body
 - Budget for Ethics Board – to cover costs associated with investigations, issuing subpoenas, etc
 - Continue to accept public and town feedback and present revisions as necessary

**RESOLUTION - ERIE COUNTY SNOW REMOVAL
AND ICE CONTROL AGREEMENT**

WHEREAS, the County of Erie owns, operates, and maintains a highway system located throughout the Town of West Seneca and the County's Department of Public Works is responsible for administering and supervising all removal of snow and control of ice on County roadways; and

WHEREAS, the County of Erie wishes to contract with the Town of West Seneca for the removal of snow and control of ice on certain County roadways in the Town of West Seneca; and

WHEREAS, the Town of West Seneca has appropriate personnel and equipment to properly maintain County roadways for the purposes of snow removal and ice control; and

NOW THEREFORE, be it resolved that the Town Board of the Town of West Seneca authorizes the Supervisor to execute the Intermunicipal Snow Removal and Ice Control Agreement with the County of Erie for Town of West Seneca to properly maintain the County roadways for the purposes of snow removal and ice control.