

Supervisor Gary Dickson called the meeting to order at 6:00 P.M.

ROLL CALL:

Present	-	Gary Dickson	Supervisor
		William Bauer	Councilman
		Joseph Cantafio	Councilman
		William P. Hanley, Jr.	Councilman
		Jeff Piekarec	Councilman
Absent	-	None	

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

MINUTES TO BE APPROVED

- Motion by Supervisor Dickson, seconded by Councilman Hanley, to approve Minutes #2020-11 of May 28, 2020.

Ayes: All

Noes: None

Motion Carried

ANNOUNCEMENTS

No announcement were made

PUBLIC COMMENTS ON COMMUNICATIONS

A resident questioned the absence of an attachment for Item 1.

Supervisor Dickson responded Item 1 was going to be an Executive Order regarding outdoor seating for restaurants and has been withdrawn because NY State has issued the guidelines.

Town Attorney Tina Hawthorne stated the Governor issued guidelines on June 3rd for outdoor seating in restaurants. The question that arose was if restaurants that do not currently offer outdoor seating would need a variance to allow for it at this time. It was determined that the Governor's order does apply to these restaurants; along with Code Enforcement a protocol was developed.

Code Enforcement Officer Jeffrey Schieber thanked Ms. Hawthorne for her assistance and stated the intent is to allow relief to businesses in the Town of West Seneca. In order to allow for outdoor seating, restaurants will need to provide to Code Enforcement the following documentation: site plan, seating capacity, entrances/exits, location of restrooms, and vehicle protection for the patrons. An inspection will be performed before the business can open their outdoor seating area and there will be no fees involved.

Town Attorney Hawthorne reminded business owners that New York State is requiring them to sign an affirmation that is available online along with the paperwork required by the Code Enforcement Office. Supervisor Dickson will not need to issue an Executive Order as the governor's order addressed the situation, an attachment wasn't necessary.

PUBLIC COMMENTS ON COMMUNICATIONS (continued)

Councilman Bauer questioned how long the process will take. Mr. Schieber stated it will only take a few days at most depending on how quickly an owner can provide the required documentation for the Town Board to review.

Councilman Bauer suggested the Zoning Board of Appeals Chairman be available to assist as needed and questioned the time limit for the temporary situations. Mr. Schieber stated that would be helpful as some restaurants may want to offer outdoor seating on a permanent basis. Town Attorney Hawthorne responded time limits would follow the Governor's Executive Order; reiterating this is a temporary situation and owners should plan to apply for a permanent variance if they would like to continue with outdoor seating.

Councilman Bauer asked if any businesses and restaurants have reached out to the Code Enforcement Office and thanked Mr. Schieber and Ms. Hawthorne for their work to expedite the process. Mr. Schieber confirmed four phone calls were received the previous week.

Councilman Piekarec questioned if applicants will be advised as to what is not acceptable if they were to apply for permanent status. Code Enforcement Officer Schieber stated each situation will need to be reviewed very carefully.

NEW BUSINESS

12-A COMMUNICATIONS

1. Supervisor Dickson re Executive Order 2020-01 Item was withdrawn.

2. Highway Sup't. re Equipment purchase and trade-in of equipment Motion by Supervisor Dickson, seconded by Councilman Piekarec, to authorize the purchase the following equipment from Five Star Equipment: 2020 John Deere 524L Wheel Loader-Sourcewell under Contract No. 032515-JDC-NYS in the amount of \$142,850.00 and authorize the trade-in of the following equipment to Five Star Equipment:

<u>Vehicle #</u>	<u>Plate #</u>	<u>Year/Make</u>	<u>Vin #</u>	<u>Net Trade</u>
1051	AK9794	1998 John Deere 44HXT	DW444HX564908	\$13,500
1052	AK9873	1991 John Deere 544 Loader	DW44ED533737	\$16,500

Noting, with the trade-in, the total amount of this purchase will be \$112,890 which will be paid with a five year purchase plan with the first payment of \$24,824.51 due one year after delivery of equipment; funds will be available in line 029950.975.1

Ayes: All

Noes: None

Motion Carried

7. Chief Denz re Appointment of James P. Unger as Police Captain
- Motion by Supervisor Dickson, seconded by Councilman Hanley, to terminate James P. Unger as Patrol Lieutenant and appoint him to the rank of Police Captain effective Tuesday, June 9, 2020 at an annual salary of \$109,078.55 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

8. Town Assessor re Resignation of Peter Wittmeyer as Real Property Appraiser Technician
- Motion by Supervisor Dickson, seconded by Councilman Hanley, to accept the resignation of Peter Wittmeyer as full time Real Property Appraiser Technician effective June 8, 2020 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Cantafio asked who will fill the Assessment Clerk position and if canvas letters been sent. Supervisor Dickson stated they have not, he would like to hold off; he understands there is interest in an internal transfer for this position which would create an opening in a different department. Councilman Cantafio questioned if this is going to negatively impact the services this department provides as assessments affect the town's income. Supervisor Dickson stated it is not the busy time for this office, it's more towards the fall, and the hopes are transfers will be resolved by then.

Town Clerk Amy Kobler spoke on behalf of Town Assessor Erik Finbar and relayed the concerns he has being short staffed:

- ✓ Would like someone to be trained and ready to go August 1st
- ✓ The tax and exemption season will begin September 1st
- ✓ All sales and new homeowners must be current for the tax bills to be printed accurately
- ✓ Over 8,000 exemption forms must be sent out and returned
- ✓ Will be responsible for reviewing permits and associated fieldwork

Councilman Cantafio questioned if the town should be advertising the position and filling it to allow Mr. Finbar training time before the office is busy. Town Clerk Kobler stated the hiring process takes time from canvassing to interviewing candidates. There is an employee in the Town Clerk's office that is interested in transferring which would mean the Assessor's office should be actively canvassing and following the procedure to fill their vacancy. Should the transfer happen Ms. Kobler would then need to have her vacancy filled by August 1st to allow for training for tax collection.

Councilman Cantafio suggested the town begin the canvassing process questioning if a motion was required to do this. Supervisor Dickson stated the advertisement does not require a motion, only the hiring of someone.

Ayes: All

Noes: None

Motion Carried

9. Town Assessor re Appointment of Amanda Murphy as Real Property Appraiser Technician

Motion by Supervisor Dickson, seconded by Councilman Hanley, to grant Amanda Murphy a one year leave of absence from her full time position as Assessment Clerk and appoint her as full time Real Property Appraiser Technician, Group 7, Step 1, effective June 8, 2020 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

12-B REPORTS

- Amy M. Kobler, Town Clerk's report for May 2020 & Receiver of Taxes report May 2020, and Return of Tax Collection Report received and filed.
- Jeffrey Schieber, Code Enforcement Officer, building & plumbing reports for May 2020, received and filed.

12-C APPROVAL OF WARRANT

Motion by Supervisor Dickson, seconded by Councilman Hanley, to approve the vouchers submitted for audit, chargeable to the respective funds as follows: General Fund - \$95,192.42; Highway Fund - \$17,667.03; Sewer Fund - \$4,871.73; Gas Conversion - \$66.20; Electric Lighting - \$478.00 (vouchers 11177- 12543)

Ayes: All

Noes: None

Motion Carried

ISSUES OF THE PUBLIC

Residents questioned/commented on the following:

- ✓ Public attendance at meetings - Supervisor Dickson understands the next meeting will have public hearings and the legal notices indicate it will be virtual. Town Clerk Kobler confirmed due to the time frame and requirements for legal notices and public notifications – which indicate how the public can participate, the next Town Board meeting will also be virtual. Supervisor Dickson would like resume in person meetings in July according to the appropriate guidelines while still being live streamed. Councilmen Hanley, Cantafio, and Bauer are in favor and Councilman Piekarec suggested the Senior Center may provide more room. Town Attorney Hawthorne stated the Executive Order may change the number of people allowed to gather.
- ✓ Disappointed the pool will not be opened for the season and that Community Days was cancelled

Residents commented/questioned on the recent Code Red call:

- ✓ Received Code Red call regarding the School District vote and was aggravated, astonished and upset; Code Red should be used for emergencies only
- ✓ Received a call from the town regarding a School Board ballot. Since when does the town use its resources for school district business, surely the school district has the same capability to reach families, whose idea was this, did the Town Board decide this is how our tax dollars are to be spent with school district business, this is highly unusual

ISSUES OF THE PUBLIC (continued)

- ✓ The town's Code Red system was recently used by the Supervisor in the school board election, while it may seem like a good idea to notify residents how to vote, the move may have damaged the reputation of the system to notify residents of emergencies; both the Supervisor and Councilman Piekarec failed to see that mixing politics and emergencies is a bad idea and risk losing any benefit the name Code Red implies. Unaware of the Supervisor using the system for COVID related emergencies or curfew announcements, but used it for this election where his wife, Patti Stevens, is a candidate; can the town now refuse the service for every other election in the town, like fire district elections; this was a bad precedent to set – either rename the system to something more benign or be prepared for the system's failure in the event of an actual emergency as Code Red implies danger; if used for elections people will learn to ignore the system altogether. Do you three (referring to Councilmen Bauer, Cantafio, and Hanley) take it seriously? Judging from comment of the other two board members they do not

Supervisor Dickson stated there is a lot of misunderstanding of what Code Red is for, per the Code Red page it is for time sensitive emergency situations or important community alerts. In 2014, Supervisor Dickson stated the Police Chief said it was for local emergencies and town events; historically it has been used for Community Days and parking at the soccer park. Supervisor Dickson stated a system that can be used to tell people about parking can be used to let people know they can vote, and feels voting is more important than parking. There is no cost to send an alert out. Supervisor Dickson felt there was confusion about the voting and it was helpful to the community. Supervisor Dickson worked with the School District Superintendent to draft the wording. Supervisor Dickson suggested it was a public service announcement and proceeded to read the Code Red message and further stated he received overwhelmingly positive responses from people. Supervisor Dickson does not believe the school district has the same resources and this is an example of how the town works collaboratively with the school district.

Councilman Piekarec referred to the changes being made due to COVID-19 state of emergency and stated the School Board had four weeks' notice to allow absentee voting. During times of crisis we come together, we share services and mutual aid, this is an example. The Town of West Seneca has a robocall list of 27,000 while the school district has about one-fifth of this; he felt that it was a very neutral call that didn't favor or oppose any candidate – it was a public service announcement. The school district did put information out on social media but not everyone is on social media and believes the intention of the Supervisor was to alert more people to know how to vote under these circumstances.

Councilman Hanley stated he heard the question to be why was the Code Red used for the School Board vote and not for the rumored protest coming to West Seneca, any closures that were happening, or any other issues. Code Red is not a robocall it is a reverse 911 system. The procedures in place to use Code Red require the Code Enforcement Office and Chief of Police's review of the message before it is relayed and does not believe either party saw this before it was sent out nor was he personally made aware of it. The system is not free: Code Red costs \$23,000 per year, the Supervisor and his deputy were on town time using town equipment; the school district should take care of their business. Councilman Hanley stated he did not think the town should have gotten involved in School Board politics.

Councilman Bauer stated that while the recent use of the CodeRED Emergency notification on June 4, 2020 by the Town of West Seneca Supervisor, and his personal secretary, is a clear violation of the CodeRED Next Service agreement with the Town of West Seneca and Emergency Communications Network, LLC, the service provider of the CodeRED, it is also a fundamental breach of the separation of governance between the Town Board of West Seneca and the West Seneca School Board. It is essential that there be a clear separation

ISSUES OF THE PUBLIC (continued)

between the management and oversight of each governing body and that the Town of West Seneca Supervisor's involvement with the Town of West Seneca School Board election process clearly clouds that separation. It is imperative that each governing board stay autonomous and self-sufficient. During the March 2, 2020 Town Board meeting, this subject was broached by resident Mrs. Susan Kims when she questioned the fact that the Town Highway Department was paying for recycling for the school district and the fact that the school district should have their own separate contract with Modern and not piggyback off of the town's contract. That question from Mrs. Kims is basically reinforcing the conviction that each governmental body must be independent. It is my personal stance that the West Seneca School Board can and should address any shortfalls or deficiencies in their election process and that the West Seneca Town Board and town administration should not be involved in their resolution of these issues. Historically, the governing bodies of the Town of West Seneca and the West Seneca School District have had an amicable, healthy business relationship and we are confident that it will continue as such for the foreseeable future. The CodeRed Next Services Agreement executed in 2014 states the Service shall not be used by any school, school system, department of education, university department(s), or by any departments which are not directly governed by the Licensee without the prior written consent of the Licensor, nor shall any school, school system, departments of education, university department(s) data be uploaded into the Service. The Licensor offers alternate licensing solutions specifically designed for education separate from the service. Councilman Bauer stated the town has breached the contract by using the system for the school board.

Councilman Piekarec disagreed that the contract was breached as the town put out the call not the school district; it does not govern the messages and public service announcements may be made. The town did not get involved in school district politics, just the right to vote which is a public service announcement in a time of an emergency.

Councilman Cantafio stated motive and politics aside, this is about judgment, transparency, and process. The Supervisor decided to utilize CodeRED without notifying or consulting with any member of the Town Board, the Town Attorney, the Town Clerk, or the Chief of Police. Councilman Cantafio questioned why the Supervisor chose not to use FaceBook as he had been doing through the pandemic and civil unrest. Councilman Cantafio contradicted Supervisor's Dickson's statement about CodeRED, reading from the CodeRED webpage: "to be notified by your local emergency response team in the event of emergency situations or critical community alerts. Examples include: evacuation notices, bio-terrorism alerts, boil water notices, and missing child reports." The town could look into a service for general messages; CodeRED should not have controversy. Councilman Cantafio disagreed that there were no costs associated with the call; he reread the section of the contract Councilman Bauer had read and reinforced the provision "in no instance shall the Service be used by any school, school system, departments of education, university department(s), or by any departments which are not directly governed by Licensee..." reminding Councilman Piekarec these are the facts. Councilman Cantafio asked Town Attorney Hawthorne for her legal opinion commenting the town is now exposed to a possible breach of contract and possible additional fees. Better judgment and transparency need to be exercised; he referred to a caller's question about future elections that may experience low turnout and whether CodeRED will be used. Councilman Cantafio summarized his points: there is a cost - it is not a robocall, people sign up for CodeRed for a very specific reason; it was not a collaborative decision but everyone is now accountable. Councilman Cantafio stated he is surprised the Supervisor would use the argument that "it was done before" and would like to have a process in place going forward.

ISSUES OF THE PUBLIC (continued)

Town Attorney Tina Hawthorne commented that it would appear that in this instance CodeRed was not used in accordance with the contract; it is unknown if the company will pursue action. There may be an issue with the term of the contract. Ms. Hawthorne would never give any advice to go against the terms of any contracts the town has entered into. It appears there may be an issue, it is subject to some interpretation; but it clearly states "no department" not "at the sole discretion of the town."

Supervisor Dickson stated that is why we did it, not the school. There is no additional cost per message, we pay the contract no matter what, and we don't pay per message. Supervisor Dickson is glad to see the passionate defenders and hoped everyone was equally passionate when CodeRED was used for parking instructions and Community Days – which is an independent agency. The Supervisor had discussions with Chief Denz regarding the possible protests and they decided not to use CodeRED. Using the system for a fire districts can be considered.

Supervisor Dickson challenged Councilman Cantafio's interest in the matter and claimed Mr. Vastola works for him as part of the Teachers Union questioning if Councilman Cantafio has a direct interest in the election.

Councilman Cantafio stated he does not. The School Board has one employee, the Superintendent. The issue is that Supervisor Dickson chose to do something that exposes the town; the Chief of Police did not condone the call and the other Town Board members were not aware of it. Mr. Vastola does not and has never worked for Councilman Cantafio. Mr. Vastola is a friend as a result of living and working in the town his entire life. They work together. Councilman Cantafio does not work for the School Board and the impact of the election on him personally is zero. Councilman Cantafio is disappointed that a discussion about CodeRED has come to this instead of an acknowledgment of having a better process; and hopes that someone has a resolution to move forward on. If the Supervisor had shared his idea about the call the current conversation wouldn't be happening.

Supervisor Dickson stated the overwhelming response he has received has been very grateful and very positive, even from the School Superintendent, "who by the way wrote this thing, we only edited it slightly." It was clearly a public service announcement, whether it shouldn't have been the school district is an argument for another day. It was absolutely a good thing for the Town of West Seneca and the more people that can be educated about how to vote the better.

Town Attorney Hawthorne addressed the question Councilman Cantafio presented, the fact that the Superintendent wrote the script gives credence against Councilman Piekarec's argument that this was not done by the school district using our system. That is very concerning from a legal perspective.

Councilman Piekarec stated he would argue differently as a town employee read the message using the town's system.

Town Attorney Hawthorne asked Councilman Piekarec if he reviewed the contract, he said he had. Ms. Hawthorne stated her legal training would show her differently.

ISSUES OF THE PUBLIC (continued)

Motion by Councilman Bauer, seconded by Councilman Cantafio, to adopt the following resolution creating a CodeRED Emergency Notification Service Distribution Policy:

Whereas, the Town of West Seneca CodeRED Emergency Notification Service is a program offered by the Town of West Seneca to notify residents in the event of emergency situations or critical community alerts; such as evacuation notices, bio-terrorism alerts, boil water notices, and missing child reports; and,

Whereas, the CodeRED system should be utilized to provide only information on emergency situations or critical community alerts in order to not weaken the importance of the message to subscribers.

Now, therefore be it resolved that the CodeRED Emergency Notification Service shall not be utilized for any purpose not deemed necessary by the Chief of Police or the Emergency Response Team, unless by majority vote of the Town Board; and,

Be it further resolved that if a party other than the Chief of Police, Emergency Response Team, or Town Board wishes to utilize the CodeRED Emergency Notification Service, this usage must be approved by the majority of the Town Board; and,

Be it further resolved that the Chief of Police and the Emergency Response Team are granted the ability to immediately utilize the CodeRED Emergency Notification Service when they deem necessary; and,

Be it further resolved that when the Chief of Police or the Emergency Response Team utilize the System, all Town Board members are notified of the utilization and its purpose.

Motion by Councilman Piekarec, seconded by Supervisor Dickson, to table the resolution to allow for all Town Board members to review it as well as the public.

On the question, Supervisor Dickson stated the public should get a chance to look at it and weigh in as the item is not in the agenda, and was brought up without any warning to the rest of the Town Board. Councilman Hanley replied we got as much notice as the Code Red.

Ayes: (2) Supervisor Dickson
Councilman Piekarec

Noes: (3) Councilman Bauer
Councilman Cantafio
Councilman Hanley

Motion Failed

Motion by Councilman Bauer, seconded by Councilman Cantafio, to adopt the resolution as read by Councilman Bauer creating a CodeRED Emergency Notification Service Distribution Policy.

On the question, Supervisor Dickson asked Chief Denz for his input. Chief Denz stated he does not see that the resolution would bind him, just add an extra step in the process, Councilman Bauer confirmed that the Chief and the Emergency Response Team have the authority to immediately utilize the system where they deem necessary, it will not hinder him. Chief Denz stated he has no problem with the resolution.

ISSUES OF THE PUBLIC (continued)

Councilman Cantafio reiterated the resolution will increase transparency and it does not take away any ability to use the CodeRED system in the future as the board sees fit. It will prevent a situation like this from happening again.

Councilman Hanley reminded Chief Denz of the original wording on August 11, 2014 Work Session when the CodeRED was presented to the Town Board: Information will be reviewed by Code Enforcement Staff and Chief Denz prior to being sent out to assure it qualifies as an emergency or enforcement use. During the Town Board Meeting that same evening it was approved.

Chief Denz reminded Councilman Hanley that at the time the Disaster Coordinator was the Code Enforcement Officer, John Gullo. Mr. Gullo eventually took the lead on most of the things that were sent out on CodeRED. Since Mr. Gullo retired the previous Town Board put the leadership under the Police Department.

Town Attorney Hawthorne commented one consideration that should be kept in mind when adopting the resolution is that it calls for the Town Board members to have a meeting, if something of an urgent nature arose it would require some planning on behalf of the Town Board.

Supervisor Dickson stated for that reason it would make things difficult to send out - waiting two weeks.

Councilman Cantafio stated anything of critical nature the Chief could put out. Other situations can be discussed including the call about the School Board election. Under this circumstance, there would have been time for the Town Board to make a collaborative decision.

Supervisor Dickson contradicted the time table Councilman Cantafio presented and stated that this issue became urgent and would not have allowed for the delay until this Town Board Meeting.

Ayes: (3) Councilman Bauer
Councilman Cantafio
Councilman Hanley

Noes: (2) Supervisor Dickson
Councilman Piekarec

Motion Carried

A member of the West Seneca School Board commented/questioned on the CodeRED call:

- ✓ The West Seneca School Board did not know about the CodeRED call
- ✓ How many subscribers to CodeRED – Mr. Najm stated the last round of calls made reached 23,565 people

A resident questioned if the town would reconsider opening the small pool and commented that pools are opening in neighboring communities – the Town Board was not aware of any communities opening their pools

PRESENTATION OF DEPARTMENT HEADS

- Town Justices, Computer software and equipment savings, received and filed.
- Mary Josefiak, Sr. Recreation Therapist, Department updates, received and filed.
- Lauren Masset, Recreation Supervisor, Department updates for May 2020, received and filed.

Councilman Cantafio

- Excited to see places opening up; wished continued health and achieving phases to get back to the way things were

Supervisor Dickson

- Shared updates from conference call with Erie County Executive Mark Poloncarz
 - ✓ The State has issued recreation guidelines – forwarded to Highway Superintendent Brian Adams
 - ✓ Number of COVID-19 infections are going down
 - ✓ All government workers are back in the office at the county
 - ✓ Basketball courts can open
 - ✓ No guidance from the state yet on youth sports
 - ✓ Other Supervisors on the call indicated their pools will not open
- Working on getting bids from IT companies, total of 3
- Started multi-year budgeting using tool from the Comptroller's website

Councilman Hanley

- Thanked Supervisor Dickson for passing along the recreation guidelines and pointed out that they are allowing swim classes and swim instruction to go forward
- Referred to a poll about the decision to close the pools already in the West Seneca Bee – 80% of respondents were upset with the decision
- Overnight camps, graduation ceremonies with attendance limits, and outdoor seating is being allowed; his opinion is that they closed the pools too early
- Suggested a refund to tax payers because of the services they won't be receiving – pools, possibly the ice rink, and the Senior Center is open part-time. Supervisor Dickson asked what mechanism Councilman Hanley would propose to refund tax payers. Councilman Hanley does not have one; he is presenting the idea for discussion. Supervisor Dickson suggested that the way you give money back is to not increase taxes in next year's budget. The pool in general is not a moneymaker; we lose money on the pools and the ice rink.

Councilman Piekarec

- Congratulated the Police Captain and Police Lieutenant on their promotions
- The West Seneca Library opened for curbside pick up, be sure to take advantage of it and thanked the Library Director Robert Alessi and the Library Board for making this happen

Highway Superintendent Adams

- Starting the CDBG roadwork project this week on Kirkwood Drive, Duerstein Street and Edson Street; anticipate 3 weeks for the project- reminded people do not park on the street Monday thru Friday from 7:00 AM to 3:30 PM

Chief Denz

- Jim Unger is going to the FBI National Academy next March; more interest in advanced management classes in the department
- Assured residents the Police Department was fully prepared for imminent threats dues to the protests
- Our Police Department is very progressive, many topics being protested, such as race issues and progressive policing, have been in place for many years; chokeholds have not been used since the 1970's; de-escalation, duty to intervene have been doing since Rodney King in 1993
- Policing is different across the nation, different levels of training, there is complete value in what is being discussed and perhaps a national standard so we're all on the same page
- West Seneca Police Officers are highly educated and motivated; the department is well out in front

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

TOWN BOARD PROCEEDINGS
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Code Enforcement Officer Jeffrey Schieber

- Planning Board Meeting Thursday, June 11, two projects – one is an apartment complex and the other will come back to the Town Board for a special permit for the service of alcohol

ADJOURNMENT

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adjourn the meeting at 7:30 P.M.

Ayes: All

Noes: None

Motion Carried



AMY M. KOBLER, TOWN CLERK

