

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 Bauer, to approve Minutes #2021-17 of August 23, 2021.

Ayes: All

Noes: None

Motion Carried

PUBLIC COMMENTS ON NEW BUSINESS

No comments were received.

NEW BUSINESS

18-A ANNOUNCEMENTS

- Supervisor Dickson re Agricultural District annual enrollment period
 - Supervisor Dickson re Cannabis – Supervisor Dickson asked the Town Board members if they decided on allowing dispensaries and stated he would like to opt out for the following reasons:
 - ✓ Opting out leaves the town with the ability to opt in in the future
 - ✓ Acknowledged the survey results were in favor of the dispensaries but feedback he has received has been in opposition
 - ✓ Would like to see how other towns handle dispensaries and what regulations NYS imposes
- Councilman Piekarec stated his opposition to opting out:
- ✓ Should not restrict residents from their personal choice and freedom
 - ✓ NYS legalized cannabis
 - ✓ Would like to attract business to West Seneca and receive the tax revenue
- Councilman Hanley stated he is in favor of opting out:
- ✓ Dangers to health from using cannabis
 - ✓ Do not want to promote usage
- Councilman Cantafio stated he is in favor of opting out:
- ✓ Supports the decriminalization of cannabis and its medicinal uses
 - ✓ Cannot support allowing dispensaries at this point due lack of guidance from NYS
- Councilman Bauer stated he is in favor of opting out:
- ✓ Would like to observe how other communities and police departments handle dispensaries
 - ✓ Questioned the risks to the neighborhoods where dispensaries are located

Motion by Supervisor Dickson, seconded by Councilman Hanley, to direct the Town Attorney to draft a local law to opt out of allowing cannabis retail dispensaries.

Ayes: (4) Supervisor Dickson
Councilman Bauer
Councilman Cantafio
Councilman Hanley

Noes: (1) Councilman Piekarec

Motion Carried

- Supervisor Dickson re Sanitation study – Report completed by an independent accounting firm regarding potential costs savings to switching to automated side loading trucks with one man: \$1.1M over ten years.

Councilman Cantafio stated after reviewing the report he is uncertain of the savings and feedback from residents indicate they want safety and services.

Supervisor Dickson stated he agrees there is a tradeoff and is not for going to the automated trucks.

Highway Superintendent Adams stated he was unaware of the study and does not agree with the ten year savings amount. The Sanitation Department also collects yard waste, and the side loaders would not be able to do this; residents will continue to bag their yard waste and put it into their garbage totes and the town would be paying for this going to the landfill. Highway Superintendent Adams also challenged the maintenance costs in the report and stated a truer comparison would be to a municipality in the northeast that has similar winters.

Councilman Piekarec stated the town could try a hybrid version and keep the yard waste trucks or phase in the new trucks to work out potential issues.

Highway Superintendent Adams stated the idea of Councilman Piekarec would eliminate the savings even more. Employees are brought in as part-timers and based on their performance are promoted to full time when positions open; this process also allows them the experience and training necessary to easily move employees around the Sanitation and Highway Departments as needed.

Councilman Bauer questioned the cost of the report. Supervisor Dickson stated the cost was approximately \$5,000. Director of Finance Strauss stated the invoice was \$6,053.

Councilman Hanley stated the sanitation workers are very respected within the community and residents do not want their garbage out on the curb for eight hours. According to the report, the side loader trucks will require more maintenance which will most likely require additional mechanics. Councilman Hanley stated he is skeptical that one side loader can pick up more than two people and noted each route has approximately six hundred stops per day. Finally, sanitation workers pick up everything, including items dropped by the recycling trucks, and does not support replacing sanitation workers with one man side loader trucks.

- Councilman Bauer re Proposed bike route

Councilman Bauer stated the town is in the initial phase of applying for a TAP grant from the NYSDOT to fund the majority (80%) of the cost of constructing a bike route along Seneca Street and Center Road and noted the project will comply with the Greater Buffalo-Niagara Regional Transportation Council.

Councilman Bauer cited the following action item from the Executive Summary of the Town Comprehensive Plan: Transportation, Access & Connectivity – Develop a Bicycle and Pedestrian Master Plan that inventories and analyzes existing and potential pedestrian, bicycle, and transit routes for improved connectivity and access. Councilman Bauer introduced Christopher Holmes, president of the West Seneca bike group, to speak on this topic.

Christopher Holmes stated the Buffalo Niagara Regional Bicycle Master Plan is a regional bicycle plan for Erie and Niagara Counties developed by the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) and its partners. Seneca Street to Center Road up to Union Road has been identified as a very challenging route and one that can be made safer. The NYSDOT is currently looking for candidates for a grant and is requesting the town not miss the opportunity.

A member of the bike group stated after the NFTA bus on Center Road was eliminated, he decided to commute via bicycle to his job in downtown Buffalo. His route goes from Center Road to Seneca Street and into downtown and the biggest concern is safety. The member cited soft shoulders, narrow lanes, standing water and deteriorating street conditions as hazards bike riders and pedestrians face daily. The grant money will give the community an opportunity to improve the conditions.

Councilman Bauer stated Town Engineer Tanner provided an estimated cost of the project to be \$1.7M of which the town's portion would be \$346,000. As most of the path is on Erie County's right of way the town will need to submit a joint application with the county and the town has reached out to Erie County Department of Public Works for funding.

Town Engineer Tanner stated the cost estimate was based original plan was to take one of the existing lanes of traffic, but ECDPW advised this was not likely possible, instead the roadway would need to be expanded. Mr. Tanner cautioned the next TAP application will be higher due to the change, possibly raising the town's share to \$400,000.

Councilman Piekarec questioned if the widening would just be on Seneca Street. Mr. Tanner stated there are requirements from Erie County that must be followed.

Supervisor Dickson stated currently there is not much room on Seneca Street. Mr. Tanner agreed and stated the plans will be developed accordingly. Supervisor Dickson questioned how this would be done in the areas with very little extra space and the impacts on the cost. Mr. Tanner stated he will have a revised estimate before the next meeting and NYS provides comments on the application when estimates are lower than what is feasible.

Supervisor Dickson questioned if there is enough county right of way without impacting property owners. Mr. Tanner stated there is not and money will need to be built into the grant for easements.

Councilman Hanley stated the communities around West Seneca have been adding bike paths and questioned Councilman Bauer if the grant requires this bike path to connect to an existing one. Councilman Bauer confirmed that is a requirement and the town has applied in past years but was denied due to the prior proposed locations. Councilman Hanley stated he supports this project.

18-B DISCUSSION

- Town Clerk re Records Management
 - ✓ The Town Clerk is the Records Management Officer and must follow the NYS Archives Records and Retention Schedule for Local Government Records, LGS-01
 - ✓ Social media records must be compliant
 - Risks include diminished control, exposure to cyber-attacks, and deletion of records by service providers
 - Determine if a post is a record, whether it is the original, and the required retention
 - Types of records include general correspondence, publications, complaints, and requests for service
 - A record is anything regardless of physical form that documents government functions
 - ✓ NYS Archives does not recommend a manual approach to archiving social media records
 - Reviewed two providers – Archive Social and Page Freezer – Selected Page Freezer
 - Capture social media accounts in real time including timelines, and direct conversations
 - Archives appear exactly like the original platform and every like, share, edit, and deletion is recorded
 - Creates a legal record and is searchable and exports data to a pdf with a legal timestamp and signature
 - Account holders do not share their passwords and all archived data can be exported should the town not renew services
 - Police Department is on board with the product
 - Cost is \$250 for set up and \$199 per month

Councilman Piekarec questioned what social media pages will be archived. Town Clerk Kobler stated the subscription price includes up to ten accounts and the following will be enrolled: the Town of West Seneca, Recreation Department, Police Department, the Burchfield Nature and Art Center, the Environmental Commission, and all official accounts. Supervisor Dickson stated he has a West Seneca Supervisor Facebook page used for official purposes and would like this archived.

Town Clerk Kobler gave examples of records created on the social media accounts, including dangerous conditions, that could be relevant in lawsuits. Town Attorney Hawthorne clarified what matters is how the page/social media account is used and not merely what the user calls their page. If official town business is being conducted, the account should be archived.

Councilman Hanley asked if he responded to a resident on his personal page about a town issue and did not follow through, would the town be liable. Town Clerk Kobler said yes. Ms. Hawthorne stated the record should be maintained. Councilman Hanley further questioned if no one at the town knew of this interaction would the town still be liable. Ms. Hawthorne stated yes, and it should be maintained in the town's record keeping; lawsuits will investigate any town official's prior knowledge of a notice of defect. Town Clerk Kobler stated prior to social media, notices of defect were generally received via letters submitted to the Town Clerk's office and then distributed to all necessary parties. In the absence of social media archiving, the town is not compliant with NYS requirements.

Supervisor Dickson questioned if Twitter and Instagram accounts would be counted separately. Town Clerk Kobler confirmed they would and the price increases beyond ten accounts. The Police Department has previewed Page Freezer and are onboard with the product for their social media accounts.

18-C COMMUNICATIONS TO BE VOTED ON

1. Town Attorney re Municipal Cooperation Agreement – School Crossing Guards

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution authorizing the Supervisor to execute the Municipal Cooperation Agreement School Crossing Guards with the West Seneca School District:

WHEREAS, the Town of West Seneca School District wishes to have school crossing guards in place for the protection of school children going to and from school; and

WHEREAS, Article 5-G of the General Municipal Law and Section 208-a of the General Municipal Law, the Town and the District are parties to a Municipal Cooperation Agreement, dated October 17, 2019, whereby the Town agreed to provide and the District agreed to pay for services of school crossing guards employed by the Town during the 2019-2020 school year, and the Town and District extended said Agreement from January 11, 2021 through June 25, 2021 for the 2020-2021 school year; and

WHEREAS, the pursuant to Article 5-G and Section 208-a of the General Municipal Law, the Town and the District wish to again extend the terms of the Agreement for services to be provided during the 2021-2022 school year;

NOW THEREFORE, be it resolved that the Town Board of the Town of West Seneca authorizes the Supervisor to execute the Municipal Cooperation Agreement School Crossing Guards Between the Town of West Seneca and West Seneca School District extending the terms of the October 17, 2019, Agreement regarding the same.

Ayes: All

Noes: None

Motion Carried

2. Town Attorney re Agreement with Assistant Chief of Police

Motion by Supervisor Dickson, seconded by Councilman Hanley, to authorize the Supervisor to execute the Employment Contract for West Seneca Assistant Chief of Police with William J. Leitzel.

Ayes: All

Noes: None

Motion Carried

3. Town Attorney re Purchase - Courtroom air conditioning

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution authorizing the purchase of air conditioning units and equipment:

WHEREAS the Town of West Seneca operates a court in Town Hall in the interest of exercising justice, maintaining social order and the rule of law, and resolving disputes, and in doing so, the courtroom is frequented by Judges, attorneys, staff, and residents regularly; and

WHEREAS on or about August 4, 2021, the Town of West Seneca became aware that two of five air conditioning units in the courtroom were inoperable and a third air conditioning unit is operating deficiently and the company with the replace parts closed their business during the COVID-19 pandemic; and

7. Highway Sup't. re Title change for Brian Cummins to Working Crew Chief

Motion by Supervisor Dickson, seconded by Councilman Bauer, to terminate Brian Cummins as a Highway Heavy Motor Equipment Operator and appoint him as a Working Crew Chief Group 6, Step 5 at a rate of \$33.57 per hour effective September 7, 2021, as per the Blue-Collar Contract and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

8. Highway Sup't. re Title change for Norman Locher to Highway Mechanic

Motion by Supervisor Dickson, seconded by Councilman Hanley, to terminate Norman Locher as a Sanitation Motor Equipment Operator and appoint him as a Highway Mechanic Group 5, Step 3 at a rate of \$26.23 per hour effective September 7, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

9. Highway Sup't. re Title change for Adam Karyczak to Highway Laborer

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to terminate Adam Karyczak as a Sanitation Motor Equipment Operator and appoint him as a Highway Laborer Group 1, Step 3 at a rate of \$24.91 per hour effective September 7, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

10. Highway Sup't. re Title change for Kevin O'Shaughnessy to Highway Laborer

Motion by Supervisor Dickson, seconded by Councilman Hanley, to terminate Kevin O'Shaughnessy as a Sanitation Motor Equipment Operator and appoint him as a Highway Laborer Group 1, Step 3 at a rate of \$24.91 per hour effective September 7, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

11. Town Clerk re Status change for part-time Cashier Mary Jo Sedor-Bunn to seasonal

Motion by Supervisor Dickson, seconded by Councilman Hanley, to change the status of part-time Cashier Mary Jo Sedor-Bunn to seasonal effective September 10 – November 30, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

12. Code Enforcement Officer re Rezoning request – 1465 Union Rd, 798 Center Rd, 150 Fremont Ave

Motion by Supervisor Dickson, seconded by Councilman Piekarec, to consider the request from the owner of 1465 Union Road, 798 Center Road, and 150 Fremont Avenue for a change in zoning from C-1 to C-2(S) to allow for the redevelopment of the site with new office and restaurant buildings and refer the request to the Planning Board.

Ayes: All

Noes: None

Motion Carried

13. Director of Finance re Budget transfer – Historical preservation

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to approve the following budget transfer in the amount of \$15,100 for expenses related to the restoration and preservation of an 1897 Colt Gatling Gun:

Increase of \$15,100 to 01.8070.50451 – Historical Preservation Committee – Professional Services

Decrease of \$15,1000:

\$2,000 from 01.1010.50414 – Town Board – Continuing Education and Training

\$2,000 from 01.7550.50473 – Celebrations – Patriotic Observances

\$3,675 from 01.7550.50474 – Celebrations – 4th of July Celebration

\$7,425 from 01.1990.50480 – General Fund – Contingent Account

On the question, Councilman Cantafio introduced Jim Manley and Tom Schobert to speak about the Gatling Gun.

Mr. Schobert stated the gun was donated to West Seneca Supervisor Henry Lein in 1921 and was one of less than one hundred types of guns manufactured. It is currently valued at over \$100,000 and restored would be of even greater value.

Mr. Manley stated the Gatling Gun is a very valuable piece of American military history and the West Seneca Joint Veterans Committee urges the Town Board to take all necessary steps to restore the weapon to be viewed for generations to come.

Councilman Cantafio commended the knowledge and pride Mr. Schobert and Mr. Manley have and stated the town will be reimbursed from NYS funds with the help of Assemblyman Burke. Additionally, Tuckahoe Replicas & Restorations, LLC / Seed Artillery & Reproductions offers a very specialized service.

Ayes: All

Noes: None

Motion Carried

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to accept the proposal from Tuckahoe Replicas & Restorations, LLC, to restore the Gatling Gun in the amount of \$15,100.

Ayes: All

Noes: None

Motion Carried

18-D APPROVAL OF WARRANT

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to approve the vouchers submitted for audit, chargeable to the respective funds as follows: General Fund - \$405,984.93 and \$18,062.91; Highway Fund - \$161,004.36; Sewer District - \$140,917.98 and \$1,131.98; Gas Conversion Lighting Districts - \$66.67 and \$10.17; Electric Lighting Districts - \$695.89 and \$10.31; Capital - \$4,708.00 (vouchers 19861-20254 and 19780-20365)

Ayes: All

Noes: None

Motion Carried

18-E REPORTS FOR FILING

Amy M. Kobler, Town Clerk's report for August 2021 received and filed.

18-F DEPARTMENT REPORTS

Recreation Department office updates received and filed.

ISSUES OF THE PUBLIC

Kya Robinson, sponsor of the memorial flag football event that was just approved, commented on the fees for using a town park and suggested events for charity should be given a discount. Highway Superintendent Adams stated fees have been adjusted in the past depending on the purpose of an event.

A resident made the following comments/questions about the proposed car wash on Union Road:

- ✓ The project was initially voted down by the Planning Board, but the residents petitioned to allow it
- ✓ The Town Board granted the rezoning and special use permit for the property
- ✓ The applicant then went to the Planning Board with a new design that would not mitigate the noise as the original plans would
- ✓ Could the Town Board legally rescind the rezoning and special permit because the design is drastically different – Supervisor Dickson referred the question to Town Attorney Hathorne. Ms. Hawthorne stated it is not possible because when the Town Board granted the rezoning and special permit it is considered an amendment to the law. A new application to rezone again would need to be submitted by the property owner and asked Code Enforcement Officer Schieber to speak to the changes. Mr. Schieber confirmed the plan was introduced in 2019 with a different design that needed to be modified after the NYSDOT denied two curb cuts. A change in ownership occurred, and Mr. Schieber stated as a layman looking at the building plans Royal Car Wash has submitted, they are basically the same as the original with some changes to the site. The Planning Board did recommend remediation to shift the compressors as close to Union Road as possible.
- ✓ The original plans had everything inside the building and the owner saved over \$600,000 by making the changes
- ✓ The neighbors were lied to by the original property owner Mr. Spino, how is this legal. Town Attorney Hawthorne stated morally the residents take an issue with Mr. Spino, but nothing illegal occurred. Supervisor Dickson asked Mr. Schieber if a property owner can do what they want with a property if it is compliant with the zoning and how does the town address noise issues. Mr. Schieber confirmed a property owner can do what they want with a property if it is compliant with the zoning and there are noise ordinances that the Code Enforcement Office will enforce.

- ✓ Concerned about the possible damage to Fremont Avenue, Almont Avenue, and Norwood Drive if construction equipment uses them – Highway Superintendent Adams stated truck routes limited to Union Road will be established when construction begins. Supervisor Dickson stated if the current Town Board had been in place in 2019 the decision may well have been different.

A resident had the following comments and questions regarding cannabis dispensaries:

- ✓ Has Supervisor Dickson made his decision about opting out of allowing cannabis dispensaries and why - Supervisor Dickson stated he is not opposed to dispensaries but is for preserving the town's options and would like to opt out now; reports indicate it could be about eighteen months before any dispensaries open.
- ✓ The recent survey indicated support for cannabis and dispensaries
- ✓ Referred to Councilman Hanley's statement about not wanting West Seneca to miss out on the bike trail and feels that the town is depriving itself of money to be made
- ✓ Knows many recreational users who are responsible adults and challenges the outmoded ideas of gateway drugs and laziness
- ✓ Allow a smoke shop across the street from a preschool
- ✓ Cannabis is being consumed in the town already
- ✓ Why is a new brewery celebrated and how many alcohol related accidents occur versus cannabis? Councilman Hanley stated the Town Board is looking for more time to review regulations and how other municipalities handle dispensaries.

COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

Recreation Supervisor Masset

- Hiring for several part-time positions

Highway Superintendent Adams

- Traffic light on Ridge Road in front of Big Lots will be made fully functional as Aldi's is moving into the building next to them

Town Engineer Tanner

- Sewer work on Woodward is completed pending minor clean up; milling and paving being scheduled
- Phase 7 and 8 of the sewer lining reports will be provided as soon as they are completed, the new televising truck recently became available

Supervisor Dickson questioned if the Veterans Park Pavilion is complete and questioned how much of the \$300,000 grant money is left to add a comfort station. Mr. Tanner stated the contractor said it is completed and the Engineering Department is reviewing the punch list to confirm. The pavilion cost \$130,000 leaving \$120,000 and the cost for the comfort station would be between \$200,000 to \$250,000. Supervisor Dickson stated the Lion's Club would like to build a pavilion by the Bandshell and possibly contribute to the cost of a comfort station. Mr. Tanner reminded the Town Board they would need permission to carry over the grant money.

Councilman Piekarec

- Thanked the PBA for the successful car show
- September 11th Memorial Service on Saturday at 8:15 A.M. at Union Fire Company

Councilman Hanley

- Would like Highway Sup't. Adams to add the generator at Fairfax to his auction list after it is replaced

Supervisor Dickson

- Special Town Board meeting on September 14, 2021, at 6 P.M. at West Senior High School regarding a public hearing for the rezoning and special permit for 3786 and 3808 Clinton Street and shared a draft rule of order to be followed.

Councilman Cantafio

- Congratulated the Police Department on the annual Torch Run
- Congratulated Town Clerk Amy Kobler on being included on the 2021 Municipal Clerk's Honor Roll and read the many compliments she received

Councilman Bauer

- Thanked Christopher Holmes and the West Seneca Bike Group for speaking the meeting

Town Clerk Kobler

- Awaiting the 2021 school tax bills from Erie County
- Will be at the Senior Center on October 5th from 10 A.M. – 2 P.M. along with the Assessor's Office
- Dog census being conducted, Fire District No. 1 is the first

Director of Finance

- Tentative benefit basis budget to be filed with the Town Clerk on September 15th followed by the Tentative Ad Valorem budget on September 30th

Town Assessor Finbar

- Sending out exemption forms to coincide with the mailing of the tax bills

ADJOURNMENT

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to adjourn the meeting at 8:10 P.M.

Ayes: All

Noes: None

Motion Carried



AMY M. KOBLER, TOWN CLERK