

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

TOWN BOARD PROCEEDINGS
Minutes #2017-18
September 18, 2017

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.

The meeting was dedicated to the memory of Walter Yost and Robert E. Edie, Jr.

18-A MINUTES TO BE APPROVED

- Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve Minutes #2017-17 of September 7, 2017.

Ayes: All

Noes: None

Motion Carried

18-B HELD OVER PUBLIC HEARING

1. Re: A PUBLIC HEARING TO CONSIDER ADOPTION OF LOCAL LAW NO. 5 – ABSENTEE LANDLORDS & CRIMINAL ACTIVITY, in the Town of West Seneca.

Donald Weiss stated he is opposed to landlords having to pay a fee for registering.

Councilman Hart responded there is no fee being proposed by the current Town Board and they are just looking for landlords to comply. If any future board chose to assess a fee, there would have to be another public hearing to amend the local law.

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

Ayes: All

Noes: None

Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Hanley, to adopt Local Law No. 5 – Absentee Landlords & Criminal Activity.

Ayes: All

Noes: None

Motion Carried
APPENDICES

18-C LEGAL NOTICES

2. (continued)

Ryan Mills stated the property was purchased out of mortgage foreclosure and is now under contract to be purchased by Robert Jemiolo. Mr. Jemiolo will continue to rent out the two apartments above and the duplex next door that are all currently occupied. He intends to operate the restaurant/bar himself or rent it out. Mr. Jemiolo anticipates the restaurant/bar will be open in the next three to six months, but is not sure if it will be the entire restaurant from the start or phased in. Additional paved parking is required in the rear to be in compliance with Town Code and he will be asking the Zoning Board for a one year variance for paving the area. Mr. Jemiolo plans to invest in and clean up the property.

Brian Doster lives next door to the restaurant and submitted a petition opposing the rezoning & special permit request. He stated the patio is a problem because it is located between two residential properties. The previous owners did not intend to have problems either but there was loud music, foul language and patrons invading his privacy. Mr. Doster has lived there since 1994 and there was a house in between which has since been torn down. He disagreed with the zoning change and allowing a special permit for the center portion of the property.

Supervisor Meegan questioned the number of police calls to the previous restaurant/bar. Asst. Chief Boehringer did not recall a large number of calls to the bar while it was in operation.

Supervisor Meegan questioned if Mr. Jemiolo planned to have live outdoor entertainment. Mr. Mills stated there will be no live music on the patio; however, the petitioner would like a speaker system seasonally within the limits of the sound ordinance. They also understand a special use permit is required for special events. Mr. Mills further stated they have tried to address Mr. Doster's concerns and have agreed to a fence along the parcel adjoining his property.

Mr. Doster questioned if the petitioner would consider fencing around the patio due to privacy concerns.

Code Enforcement Officer John Gullo stated there is an elevation change between the property line and a 6' fence will not do any good.

Mr. Mills stated they have agreed to the 8' fence as Mr. Doster requested and are asking the Zoning Board for a variance.

Supervisor Meegan suggested shrubbery for additional screening and also noted the new sign ordinance does not allow for advertising along the fence.

18-D COMMUNICATIONS

2. Supervisor Meegan re Appointment of Megan Wnek as Director of Finance

Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Megan Wnek as Director of Finance at an annual salary of \$70,000 effective September 18, 2017 and authorize the Supervisor to execute the attached professional services agreement and complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried
APPENDICES

3. Town Attorney re Proposed Local Law No. 8 – Tax Levy Limit Override

Motion by Supervisor Meegan, seconded by Councilman Hanley, to schedule a public hearing for Monday, October 16, 2017 at 7:00 P.M. to hear all persons interested in the proposed Local Law No. 8 to override the tax levy limit established in General Municipal Law Section 3-c, noting copies of Local Law No. 8 will be available in the Town Clerk's office and may be accessed via the town's website.

On the question, Councilman Hanley stated this local law allows the town to start the budget process. If they begin the budget process and exceed the tax cap without having it in place, the town will face severe penalties.

Ayes: All

Noes: None

Motion Carried

4. Town Attorney re Proposed Local Law No. 9 – Prohibition of Smoking on Town Property

Motion by Supervisor Meegan, seconded by Councilman Hanley, to schedule a public hearing for Monday, October 16, 2017 at 7:00 P.M. to hear all persons interested in proposed Local Law No. 9 - Prohibition of Smoking on Town Property, noting copies of Local Law No. 9 will be available in the Town Clerk's office and may be accessed via the town's website.

On the question, Councilman Hart commented the October 16th meeting may be a busy one and suggested delaying this public hearing until the following meeting.

Motion by Councilman Hart, seconded by Councilman Hanley, to amend the motion and schedule a public hearing for Monday, October 30, 2017 at 7:00 P.M. to hear all persons interested in proposed Local Law No. 9 – Prohibition of Smoking on Town Property.

Ayes: All

Noes: None

Motion Carried

18-D COMMUNICATIONS

5. Director of Finance re
Budgetary transfer request

Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve a budget transfer of \$5,735.03 from Contingency Acct. #1.1990.480 to Equipment Acct. #1.7110.0200 for purchase of a buildings and grounds van.

Ayes: All Noes: None Motion Carried

6. Town Justices re Attendance
at NYS Association of Towns
Training Conference

Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize Court Clerk Maureen Brownsey to attend the Association of Towns Training Conference in Ellicottville, New York, September 25 – 26, 2017 at a cost not to exceed \$1,000.

Ayes: All Noes: None Motion Carried

7. Senior Recreation Therapist
of Sr. Services re Status
change for Georgiann Busse
to seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time clerk typist Georgiann Busse to part-time seasonal effective October 2 – December 29, 2017 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

8. Senior Recreation Therapist
of Sr. Services re Status
change for Mary Ann Gullo to
seasonal

Motion by Supervisor Meegan, seconded by Councilman Hart, to change the status of part-time ceramics instructor Mary Ann Gullo to part-time seasonal effective October 2 – December 29, 2017 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All Noes: None Motion Carried

9. Recreation Supervisor re
Termination of inactive
employees

Motion by Supervisor Meegan, seconded by Councilman Hanley, to terminate the following employees due to inactivity effective September 19, 2017:

18-D COMMUNICATIONS

9. (continued)

Danielle Aragon
Jeremy F Boltz
Sarah Ciesielski
Mary Fitzgerald
Christ Hallgreen
Kenneth R Morey
Edward R Radka

Benjamin Blandin
Jillian Boltz
Courtney Conley
Erin M Gatta
Travis Hicks
Alise Murray
Erin M Schappert

Hannah J Boltz
Ashley R Chapman
Rebekah Denz
Hannah M Gullo
Alex T Kosinski
Jesse Nowak

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

Ayes: All

Noes: None

Motion Carried

10. Highway Supt. re Part-time laborers in Buildings & Grounds Department

Motion by Supervisor Meegan, seconded by Councilman Hanley, to terminate John Schneck as part-time laborer effective September 11, 2017 and appoint Bryan Zurowski as part-time laborer in the Buildings & Grounds Department effective September 18, 2017 at a rate of \$10 per hour and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

11. Town Justices re Status change for Julie Korczynski to part-time seasonal

Motion by Supervisor Meegan, seconded by Councilman Hanley, to change the status of Julie Korczynski from part-time to part-time seasonal effective September 18 – December 1, 2017 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

18-E REPORTS

- John Gullo, Code Enforcement Officer's building and plumbing reports for August 2017 received and filed.

18-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 - \$88,126.84; Highway Fund - \$66,788.01; Special Districts - \$4842.12; Capital Fund - \$723,759.10 (vouchers 101519 - 101755)

Ayes: All

Noes: None

Motion Carried

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

DOG PARK PROPOSAL

Supervisor Meegan proposed designating a fenced area of state property along Leydecker Road as a dog park and stated she has requested Grantwriter Connie Miner to look for grant funds for this purpose. She questioned what permits the town will be required to file. Senior Code Enforcement Officer John Gullo stated a building permit will be required along with site plan review.

INCLUSION OF AGRICULTURAL LANDS INTO AGRICULTURAL DISTRICTS

Supervisor Meegan read the following public notice into the record: "Per New York State Agriculture and Markets Law Section 303-b, the Erie County Legislature designated September 1 through September 30 as the annual thirty-day period during which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district. Copies of the application form have been provided to Municipal Clerks, Assessors and Chief Elected Officials for distribution to interested landowners. The application is also available on the DEP website at www.erie.gov/environment. The Erie County Department of Environment and Planning will accept applications from September 1 through September 30. Any questions on this process should be directed to the Erie County Department of Environment and Planning. A public hearing will also be scheduled at a later date to consider all inclusion requests and the recommendations of the Erie County Agricultural and Farmland Protection Board.

FUNDING FROM ASSEMBLYMAN MICHAEL KEARNS

Supervisor Meegan stated Assemblyman Michael Kearns has made available \$125,000 for improvements at the Community Center & Library (furniture) and \$300,000 for street improvements (milling & paving). Highway Sup't. Matthew English will put together a list of streets that need paving.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

SOUND BARRIER REQUEST

Supervisor Meegan stated notice was received from the NYSDOT denying the town's request for sound barriers. The NYSDOT evaluates noise abatement only as part of reconstruction, and although Route 400 at Bullis Road was tested, noise readings were not high enough. The NYSDOT has sent the town's concerns to the regional district for consideration. Councilman Hart commented the NYSDOT should have done the study along the Covington Gardens area or Klas Avenue along the NYS Thruway.

SENIOR CENTER UPDATES

Senior Recreation Therapist of Senior Services Mary Josefiak stated flu shots will be available Tuesday and the Western New York Law Center will be available Wednesday morning to assist residents.

RECREATION DEPARTMENT UPDATES

Recreation Supervisor Lauren Masset stated over 30 hockey registration is currently taking place and youth basketball registration begins October 2nd. The Recreation Department is also accepting candy donations for the Enchanted Path event.

WEST SENECA HISTORICAL SOCIETY

Councilman Hanley announced the West Seneca Historical Society will have a presentation on Ely Parker on Wednesday, September 20th at 7 P.M. at the West Seneca Senior Center.

COMMUNITY CENTER & LIBRARY PROJECT

Supervisor Meegan announced there will be an update on the community center/library project at the October 2nd work session.

ISSUES OF THE PUBLIC

DOG PARK

Carol Yetter stated she likes the idea of a dog park but has concerns that there is sufficient help in the Buildings & Grounds Department to handle the additional maintenance work. Supervisor Meegan complimented the Buildings & Grounds employees on the job they do and stated that department has the same number of full-time workers as they did in 1981 and there are more parks today.

Linda Toy wanted to ensure there will be separate areas for big dogs and small dogs. Supervisor Meegan stated the project is in the planning stages and there will be more conversations to follow.

ISSUES OF THE PUBLIC

BUFFALO/WEST SENECA ZIP CODES

Beverly Leising referred to recent news that Buffalo is in the 30+ poverty level and expressed concern that West Seneca may be included since areas with zip codes starting with 142 indicate Buffalo. Supervisor Meegan was unaware of this and suggested Mrs. Leising contact whoever conducted the survey.

BUDGET DETAIL

Beverly Leising requested the new Director of Finance include more detail in the budget for the pool, summer camp, etc.

VOTER TURNOUT

Beverly Leising commented on the low voter turnout for Primary Day and suggested that better incentives be published to get people to vote.

LOCAL LAW NO. 9

Karen Lucachik referred to the proposed local law that will prohibit smoking on town property and questioned if this will include trucks and riding lawn mowers. Supervisor Meegan stated employees are not allowed to smoke in town vehicles or use cell phones.

DIRECTOR OF FINANCE POSITION

Karen Lucachik referred to a van purchase that was signed on September 13th by Megan Wnek who was just appointed as Director of Finance at this meeting. Supervisor Meegan responded that Mrs. Wnek has worked for Drescher & Malecki for six years and has been the liaison to the town.

INACTIVE EMPLOYEES

Karen Lucachik requested an explanation of the termination of employees in the Recreation Department. Supervisor Meegan stated they are inactive employees who haven't worked or been paid for several weeks.

ISSUES OF THE PUBLIC

ABANDONED PROPERTY LAW

Donald Weiss suggested an abandoned property law in the Town of West Seneca, noting there are three abandoned properties on Dirkson Avenue. Senior Code Enforcement Officer John Gullo stated the town is looking to pass a law to address this. It is being reviewed by Town Attorney John Fenz and then will be forwarded to the Town Board. Supervisor Meegan stated the town has aggressively looked at all properties and identified the zombie, vacant or abandoned homes. They are doing everything they can and have gone from 100+ homes down to 28.

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

ABSENTEE LANDLORDS & CRIMINAL ACTIVITY

Article I. Licensing of Landlords

§ 1. Purpose.

A. The Town of West Seneca hereby finds and declares that the rental of non-owner-occupied dwelling units constitutes a business which impacts upon the public health, safety and general welfare of the residents of the Town of West Seneca. Residential non-owner-occupied rental properties may become a haven for drug use and various criminal or disruptive activities that can cause disorder in our community and affect the quality of life of others in the Town of West Seneca.

B. The Town Board of the Town of West Seneca desires to minimize and control the adverse effects caused by illegal and nuisance activities which may occur at these residential non-owner-occupied rental properties, thereby protecting the health, safety and welfare of our citizens; and preserving the quality of life, property values and the character of neighborhoods and businesses.

C. It is the purpose of this article to implement a registration requirement for the owners of residential non-owner-occupied rental properties in order to curb criminal activity and disorder of such non-owner-occupied rental properties in the Town of West Seneca.

§ 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CRIMINAL ACTIVITY

Unlawful activity consisting of drug activity, weapons possession, assault, domestic violence, murder, sexual assault, gang activity or other activity proscribed by the Penal Law of the State of New York.

CRIMINAL CONVICTION

The entry of a plea of guilty to or a verdict of guilty for one or more counts set forth in an accusatory instrument.

DWELLING

A non-owner-occupied single-family, two-family or multifamily dwelling which is rented or for rent.

DWELLING UNIT

An individual rental unit in a dwelling.

ILLEGAL DRUG ACTIVITY

Use or possession of a controlled substance or marihuana (marijuana), as defined by the New York State Penal Law.

NON-OWNER-OCCUPIED DWELLING

A dwelling which is owned by an owner who does not reside in the dwelling.

OWNER/LANDLORD

The owner or owners of a dwelling, or a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or agent.

POLICE REPORT

A report issued by a Town police officer after said officer has responded to a complaint alleging the occurrence of criminal activity or a public nuisance.

PREMISES

A building or structure, or any part thereof.

PROPERTY MANAGER

A person or other entity designated by the owner to manage a dwelling on behalf of the owner.

PUBLIC NUISANCE

The following are declared to be public nuisances.

- A. Any premises, building, structure or real property used for the purposes of prostitution as defined by New York State Penal Law Article 230.
- B. Any premises, building, structure or real property used for purposes of indecency, obscene performances and/or promotion of obscene materials as defined by New York State Penal Law Article 235.
- C. Any premises, building, structure or real property used for purposes of illegal gambling activity as defined by New York State Penal Law Article 225.
- D. Any premises, building, structure or real property used for the purpose of illegal possession, use or sale of a firearm or weapon as defined by New York State Penal Law Article 265.
- E. Any premises, building, structure or real property used for the purpose of illegal sale, manufacturing or consumption of alcohol beverages as defined by the New York State Alcohol Beverage Control Law.

F. Any premises, building, structure or real property wherein there exists or has occurred a criminal nuisance as defined by the New York State Penal Law Section 240.45 or 240.46.

G. Activities affecting the quality of life of residents of the Town of West Seneca, including violations of the Town's Noise Law, alcohol-related incidents or other violations of the Code of the Town of West Seneca which are enforced by the Town Police Department.

RENTER/LESSEE/TENANT

Any person who rents a dwelling unit from an owner in the Town of West Seneca, In addition to its ordinary meaning, shall include an occupant of one or more rooms in a rooming house or a resident, not including a transient occupant, of one or more rooms in a hotel who has been in possession for 30 consecutive days or longer.

TOWN

The Town of West Seneca.

§ 3. Landlord license; registration requirement.

A. License required. No person who owns one or more dwelling units in the Town shall allow a dwelling unit to be occupied or rented to another for occupancy unless the owner has first obtained a rental housing business license as hereafter provided.

B. Exemptions. The provisions of this article shall not apply to hotels, motels, bed-and-breakfast establishments, rooming or boarding houses, hospitals, nursing homes, or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients or tenants. This article shall not apply to any one-family, two-family, three-family or four-family dwellings where the owner of said dwelling resides in one of the dwelling units of said dwelling.

C. Application for license. Within 30 days after the effective date of this law, the owner of dwelling units shall make written application for a rental housing business license to the Town Clerk's office. Such application shall be on a form furnished by the Town and shall set forth the following information, in addition to other information required by the Town from time to time which the Town deems necessary to administer, enforce and ensure compliance with the provisions of this article. Failure to provide such information shall be grounds to deny a rental housing business license:

(1) Names, addresses (business and residence) and telephone number(s) (business and residence) of owner;

(2) If the owner is an association, limited liability company, partnership, joint tenancy, tenancy in common or tenancy by the entirety, then the name, address and telephone number of each and every owner, member or general partner shall be indicated on the application;

(3) If the owner is a corporation, the principal place of business of the corporation must be provided, along with the name, title and residence address of all officers, directors and managing/general agents must be included on the application;

(4) If the owner has designated an agent or managing company to assist the owner with the management of the property, then the name, principal residence address, principal business address and telephone number of such agent or managing company must be included on the application;

(5) It shall be the responsibility of the owner to properly register any change of address, change of agent or change of any other pertinent information with the Town;

(6) For purposes of this article, a post office box shall not be accepted as the owner's business or residence address. Furthermore, the dwelling intended to be licensed shall not be accepted as the owner's address unless it is the principal place or residence of the owner;

(7) For purposes of this article, if the owner does not reside in or have its place of business in the County of Erie, then the owner must have a property manager located in the County of Erie. If the owner does not reside or have a business located in the County of Erie, then the owner must designate a property manager located in the County of Erie who can accept service of process.

(8) The owner shall specify the address to which all notices and invoices for fees are to be forwarded.

D. No license application fee. There is no fee for a rental housing business/landlord license under this law, but any license issued shall be renewed by the owner every two years.

E. Issuance or denial of license. After receipt of the owner's application for a rental housing business license, the Town Clerk and Town Attorney shall review same to ensure said application contains all of the required information. If the application is deemed complete, the Town Clerk's office, within 30 days, shall forward the owner a rental housing business license. If said application is deemed incomplete, the Town Clerk or Town Attorney shall notify the owner, and the owner shall have 30 days in which to supply the required information. If the required information is not supplied by the owner, the application shall be denied.

F. Effect of failure to make application or denial of rental housing business license. If the owner does not submit the rental housing business license application or fails to supply all of the information required on the application, the owner shall be subject to a fine of Five hundred dollars per owner for each thirty-day period until an acceptable application is submitted.

G. Recourse if fine is not paid. If the owner neglects or refuses to pay the fine(s) as stated in Subsection F of this section within 30 days after notification, the Town shall add any such fine(s) onto the owner's property tax bill, and it shall become a lien on the property/dwelling.

H. Term of license. A rental housing business license issued pursuant to this law shall be valid for a period of two years after its issuance, unless sooner revoked pursuant to this law.

I. Nontransferability of license. A rental housing business license issued pursuant to this law shall not be transferable to any person who has acquired ownership of a dwelling. A new owner is required to file a new application for a rental housing business license within 30 days after acquiring ownership.

§ 4. Criminal or public nuisance activity occurring on dwelling property.

A. In the event that a Town police officer responds to the dwelling unit for reports of criminal activity or public nuisance activity on the dwelling unit; finds that said activity was engaged in or facilitated by the renter, member of the household, guest or other party under the control of the renter; and issues a police report for same, the Town Attorney shall forward a notice to the owner or property manager stating that there was a police report of criminal activity or public nuisance activity on the dwelling property. The owner or property manager shall then take appropriate action to notify the tenant to cease any such activity, or evict said tenant. In the event that there is a subsequent incident at the same dwelling unit in the same activity year relating to activity engaged in, or facilitated by the same renter or a member of his/her household, guest or other party under the control of said renter, the Town Attorney shall forward by first-class mail a second notice of criminal activity or public nuisance activity to the owner or property manager. Subsequent incidents in the same activity year at the same dwelling unit will be followed by a notice to the owner or property manager, along with a notice of the imposition of the following fines:

- (1) Third incident in the same activity year: fine of \$50;
- (2) Fourth incident in the same activity year: fine of \$100;
- (3) Fifth incident in the same activity year: fine of \$500;
- (4) All further incidents in the same activity year: fine of \$1,000 per incident.

B. If the owner or property manager submits information to the Town Attorney that it is in the process of evicting the tenant in whose dwelling unit the criminal or public nuisance activity is occurring, future impositions of fines will cease. In the event that the owner neglects or refuses to pay the fine(s) as stated in this section within 30 days after notification, the Town shall add such fine(s) onto the dwelling's property tax bill, and it shall become a lien on the property/dwelling.

C. For purposes of this law, "activity year" shall mean the period of time commencing on September 1 of any year and ending on August 31 of the subsequent year.

§ 5. Crime-free/crime prevention lease addendum.

The owner or property manager of a dwelling under this law is encouraged to utilize a crime-free/crime prevention lease addendum, an example of which is annexed to this law, to assist the owner or property manager with the eviction of tenants who continue to conduct criminal or public nuisance activity in the dwelling unit.

§ 6. Tenant information.

The owner of each dwelling is required to maintain information concerning all of its tenants, including the number and names of all occupants, and the full address and telephone numbers of all tenants. In the event of criminal or public nuisance activity on the property, the owner or property manager shall cooperate with the Town Police Department by providing this information to the Town Police Department if so requested.

§ 7. Appeals.

Any owner or property manager who is notified of a fine under this law shall have the right to appeal the imposition of said fine to the Town Board of the Town of West Seneca. A written request for an appeal shall be made by the owner or property manager within 30 days after the date of the communication notifying the owner or property manager of the fine. The Town Board shall schedule a hearing within 30 days after receipt of said request for appeal. The owner or property manager shall appear at the hearing in person and shall have the right to representation by a person of his or her choice. The owner, property manager or his/her representative shall provide sworn testimony at said hearing. An appeal to the Town Board will stay the imposition of the fine until it renders its decision. The Town Board shall thereafter issue its written decision to uphold the fine or rescind the fine.

Article II. Eviction for Illegal Drug Activity or Public Nuisance

§ 8. Eviction for use or occupation of premises for illegal drug activity.

A special proceeding to evict a tenant from leased premises may be maintained upon the ground that the premises, or any part thereof, have been used or occupied for the purpose of illegal drug activity or a public nuisance as defined in § 2.

§ 9. Procedures.

The procedures applicable to summary proceedings to recover possession of real property under state law shall be applicable to any proceeding brought under this chapter.

§ 10. Service of notice, commencement of eviction proceedings.

A. The following persons, corporations and agencies may serve personally upon the owner or landlord, or upon his agent, of demised real property used or occupied, in whole or in part, for the use or possession of illegal drugs or the existence of a public nuisance, a written notice requiring the owner or landlord to make an application for the removal of the person(s) so using or occupying the premises:

(1) Any domestic corporation organized for the suppression of vice, subject to, or which submits visitation by the New York State Department of Social Services or the Erie County Department of Social Services, and possess a certificate from such department of such fact and of such conformity with regulations of the department.

(2) Any duly authorized enforcement agency of New York State, or a subdivision thereof, and/or the Town of West Seneca, under a duty to enforce the provisions of the Penal Law or of any state or local law, ordinance, code, rule or regulation relating to buildings.

B. If the owner or landlord, or his agent, does not make such application within five days thereafter, or having made it, does not in good faith diligently prosecute it, the person, corporation or enforcement agency giving notice may bring a proceeding under this chapter for such removal as though the petitioner were the owner or the landlord of the premises, and shall have precedence over any similar proceeding thereafter brought by such owner or landlord or to the one theretofore brought by him and not prosecuted diligently and in good faith. Proof of illegal drug activity or a public nuisance at the demised premises or by the occupants thereof, or of those resorting thereto, shall constitute evidence of the unlawful use of the demised premises required to be stated in the petition for removal. Notwithstanding the provisions of § 11 and § 12 of this chapter, multiple instances of illegal drug activity or a public nuisance are not required to commence an eviction proceeding under this chapter. Both the person(s) in possession of the property and the owner or landlord shall be made respondents in the proceeding under this chapter.

§ 11. Multiple convictions constitute presumptive evidence.

Two or more convictions of any person or persons had, within a period of one year, for any of the offenses defined in Article 220 or 221 of the Penal Law or any of the offenses set forth as a public nuisance in § 2 arising out of conduct engaged in the same real property consisting of a dwelling as that term is defined in Subdivision 4 of the New York State Multiple Dwelling Law, shall be presumptive evidence of conduct constituting use and occupancy of the premises for the purpose of using and possessing illegal drugs or of the existence of a public nuisance and of the tenant's knowledge thereof.

§ 12. Other evidence of prohibited conduct as presumption of existence of illegal drug activity or a public nuisance.

Two or more incidents of the following activities at any building, structure or real property within one-year period prior to the commencement of a civil action by notice of such action as provided within this chapter shall be prima facie evidence of the existence of illegal drug activity or a public nuisance.

A. Service of an accusatory instrument charging any of the offenses defined in Article 220 and 221 of the New York State Penal Law occurring upon the property. For the purposes of this section, an accusatory instrument shall include, but not be limited to, any criminal information, misdemeanor and/or felony complaint filed in a court of competent jurisdiction.

B. Service of a search warrant on the building, structure or real property where controlled substances, marihuana (marijuana), drug paraphernalia and/or weapons are seized.

C. Recovery of illegal controlled substances, drug paraphernalia or illegal firearms or weapons on the building, structure or real property.

D. Investigative purchases of illegal controlled substances on the building, structure or real property by law enforcement agencies or their agents.

E. Two or more arrests or convictions for any of the activities set forth in the definition of a public nuisance in § 2 at any premises, building, structure or real property within a two-year period shall be prima facie evidence of the existence of a public nuisance.

§ 13. Civil penalties.

A court granting a petition pursuant to this section may, in addition to any other order provided by law, make an order imposing and requiring the payment by the respondent of a civil penalty not exceeding \$5,000 to the Town of West Seneca, in which subject premises is located, and the payment of reasonable attorneys' fees and the cost of the proceeding to the petitioner. In any such case, multiple respondents shall be jointly and severally liable for any payment so ordered, and the amounts of such payments constitute a lien upon the subject real property.

Town of West Seneca
Example of Landlord - Tenant Lease Addendum

This addendum to the lease executed by and between _____ as Owner/Landlord and _____ as Tenant(s) for leasing of the property at _____, is entered into this _____ day of _____, 20____, and includes the following provisions which are hereby agreed, incorporated into and made a part of said lease: Any violations of the ordinances or any other federal, state or local criminal nuisance, or property maintenance statutes, regulations, or ordinances may result in the EVICTION of the tenant who committed, allowed or facilitated the violation.

Tenants and all persons who reside in the leased premises, by assuming possession of the same, agree that the landlord or his agents may release to the Police Department, Fire Department or Building Department information concerning the identity of all occupants. Tenants who fail to provide the landlord the names of individuals who will be temporarily residing at the dwelling unit more than seven consecutive calendar days may be subject to EVICTION.

In consideration of the execution or renewal of a lease of the rental unit identified in this lease, Owner (or Owner's agent or representative) and Resident/Tenant agree as follows:

1. Tenant, any member of the Tenant's household, a guest or invitee in the dwelling unit or on the common grounds, or any other person in the dwelling unit or on the common grounds invited there in any way by the Tenant or a member of the Tenant's household, shall not engage or in any way be involved in criminal activity, including but not limited to:

- a) Drug-related criminal activity, meaning the manufacture, sale, distribution or use of a controlled substance, cannabis or methamphetamine (as defined in the New York Compiled Statutes).
- b) Facilitate any drug-related activity.
- c) Prostitution as defined in the New York Compiled Statutes.
- d) Criminal street gang activity as defined in the New York Compiled Statutes.
- e) Threatening or intimidating actions as prohibited in the New York Compiled Statutes.
- f) Assault as prohibited in the New York Compiled Statutes, including but not limited to unlawful discharge of firearms.
- g) Any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the Landlord, his agent or other Tenants or involving imminent or actual serious damage as defined in the New York Compiled Statutes.

2. The Tenant and every member of the household shall not permit the dwelling unit to be used for criminal activity or to facilitate criminal activity, in the unit or on the common grounds, regardless of whether the individual engaging in such activities is a member of the household, a guest or invitee and regardless of whether the Tenant is present during any such offense.

3. VIOLATION OF ANY OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR TERMINATION OF THE TENANCY; PROVIDED, HOWEVER, A TENANT SHALL NOT BE RETALIATED AGAINST NOR EVICTED WHEN MERELY A VICTIM OF ANY CRIMINAL ACT PROHIBITED HEREIN, BUT SHALL BE RESPONSIBLE FOR THE ACTS OF HIS/HER GUESTS AND HOUSEHOLD MEMBERS. A single violation of any of the provisions hereof shall be deemed a serious violation and material noncompliance with the lease. IT IS UNDERSTOOD AND AGREED THAT A SINGLE VIOLATION SHALL BE GOOD CAUSE FOR IMMEDIATE TERMINATION OF THE LEASE UNDER THE NEW YORK COMPILED STATUTES. Unless otherwise provided by law, proof of violation shall not require criminal conviction, BUT SHALL BE BY A PREPONDERANCE OF THE EVIDENCE.

LANDLORD

TENANT

Please take notice that the following change was made in the Zoning Ordinance of the Town of West Seneca, County of Erie and State of New York, and notice thereof is hereby given, pursuant to §264 and 265 of the Town Law.

Whereas, the Town Board of the Town of West Seneca received a request for a rezoning for the following described property located at 172 Westminster Road from its classification of M-2 to C-1 for a residential home:

All that tract or parcel of land situate in the Town of West Seneca, County of Erie and State of New York being part of lot 206, Township 10, Range 7 of the Buffalo Creek Reservation and according to map filed in the Erie County Clerk's Office under cover no. 1537 is known as subdivision Lot Nos. 50 and 51 and being 70 feet front and rear by 130 feet in depth, situate on the west side of Westminster Road, commencing 385 feet north of Whitewood Road.

Whereas, this Town Board held a public hearing on the 18th day of September, 2017 at 7:00 P.M., EDT in the Town Hall, 1250 Union Road, in said town, to consider granting a rezoning for the above-described property; and

Whereas, at such time and place this Town Board did meet to hear any and all persons interested in the subject thereof concerning the same.

Now, therefore, be it resolved, that a rezoning be granted and the same is hereby rezoned from M-2 to C-1; and

Be it further resolved that the Town Clerk is hereby ordered and directed to make such change on the zoning map and to enter a copy of this resolution with the zoning regulations in a book appropriate for its use.

Jacqueline A Felser
West Seneca Town Clerk

Please take notice that the following change was made in the Zoning Ordinance of the Town of West Seneca, County of Erie and State of New York, and notice thereof is hereby given, pursuant to §264 and 265 of the Town Law.

Whereas, the Town Board of the Town of West Seneca received a request for a rezoning and special permit for the following described property located at 3369 – 3385 Clinton Street from its classification of R-50 to C-2 & C-2(S) for a restaurant with service of alcoholic beverages:

All that tract or parcel of land situate in the Town of West Seneca, County of Erie and State of New York being part of lot 29 of the Village of Middle Ebenezer under cover no. 102 and further described as follows:

Beginning at the northeast corner of lot 29 of map cover 102, said northeast corner being on the south line of Clinton Street; thence southerly along the east line of lot 29 a distance of 327.67' to Big Buffalo Creek as shown on map cover 102; thence westerly along Big Buffalo Creek as shown on map cover 102 a distance of 7.82'+/- to a point; thence northerly parallel with the east line of lot 29 under cover 102 a distance of 189.91' to a point; thence westerly along a line parallel with the south line of Clinton Street a distance of 74.03' to a point; thence northerly along a line parallel with the east line of lot 29 cover 102 a distance of 140.00' to the south line of Clinton Street; thence easterly along the south line of Clinton Street a distance of 83.97' to the point or place of beginning containing 13,110 square feet; and

All that tract or parcel of land situate in the Town of West Seneca, County of Erie and State of New York being part of lot 29 of the Village of Middle Ebenezer under cover no. 102 and further described as follows:

Beginning in the south line of Clinton Street at the northwest corner of lot 29 of map cover 102; thence southerly along the west line of lot 29 cover 102 a distance of 370.67' to Big Buffalo Creek as shown on map cover 102; thence easterly along the line of Big Buffalo Creek as shown on map cover 102 a distance of 188' +/- more or less to a point; thence northerly parallel with the east line of lot 29 under cover 102 a distance of 189.91' to a point; thence westerly along a line parallel with the south line of Clinton Street a distance of 74.03' to a point; thence northerly along a line parallel with the east line of lot 29 cover 102 a distance of 140.00' to the south line of Clinton Street; thence westerly along the south line of Clinton Street a distance of 107.03' to the point or place of beginning containing 53,598 square feet; and

All that tract or parcel of land situate in the Town of West Seneca, County of Erie and State of New York being part of lot 29 of the Village of Middle Ebenezer under cover no. 102 and further described as follows:

Beginning at a point on the south line of Clinton Street at distance of 71.16' westerly from the northeast corner of lot 29 under map cover 102; thence westerly along the south line of Clinton Street a distance of 24.81' to a point on the bldg. line extended of bldg. no. 3373; thence southerly along the bldg. line extended a distance of 100.00' to a point; thence easterly along a line parallel with the south line of Clinton Street a distance of 23.47' to a point that is on the bldg. line extended of bldg. no. 3385; thence northerly along the bldg. line extended of bldg. no.3385 a distance of 100.06' to the point of beginning.

Whereas, this Town Board held a public hearing on the 18th day of September, 2017 at 7:00 P.M., EDT in the Town Hall, 1250 Union Road, in said town, to consider granting a rezoning and special permit for the above-described property; and

Whereas, at such time and place this Town Board did meet to hear any and all persons interested in the subject thereof concerning the same.

Now, therefore, be it resolved, that a rezoning and special permit be granted and the same is hereby rezoned from R-50 to C-2 & C-2(S) in accordance with the Manguso survey dated 06/06/2017 as follows: Parcel A rezoned to C-2; easterly parcel split into two parcels as indicated with Parcel C rezoned to C-2(S) and Parcel B rezoned to C-2; and further, conditioned upon the following: 1) limit west driveway to one way entrance and east driveway to one way exit; 2) live music is prohibited on the patio; 3) construction of an 8' fence on the west from the rear of the building and continuing to the rear 100' with a living foliage fence for additional screening; 4) construction of a 6' fence on the east side of parcel B two feet off the property line to screen the full length of the house to the east; and

Be it further resolved that the Town Clerk is hereby ordered and directed to make such change on the zoning map and to enter a copy of this resolution with the zoning regulations in a book appropriate for its use.

Jacqueline A Felser
West Seneca Town Clerk

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT entered into this 18th day of September 2017, by and between the Town of West Seneca, New York, (hereinafter referred to as "Town"), and Megan Wnek, (hereinafter referred to as "Director of Finance").

WITNESSETH:

WHEREAS, it is the duty of all Town officials to develop policies and systems which afford the most efficient use of taxpayer funds; and

WHEREAS, the Town has been actively improving its Finance Department by way of enhanced information technology and enhanced financial controls; and

WHEREAS, the Town understands that discipline to the Town's financial policies results in the most efficient use of taxpayers' funds; and

WHEREAS, pursuant to Town Law §52(1) the Supervisor may appoint a Director of Finance who shall assist the Supervisor in the preparation of the preliminary budget and the capital budget, if any, and in the administration of other fiscal operations of the Town for which the Supervisor is responsible; and

WHEREAS, the Town wishes to engage the services of a Director of Finance to centralize the oversight of the Town's financial controls and policies; and

WHEREAS, the Director of Finance is highly qualified, and has agreed to perform such services,

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. Employment.

The Director of Finance agrees that she will at all times faithfully, industriously, and to the best of her skill, ability, experience and talents, perform all of the duties required of this position. In carrying out these duties and responsibilities, the Director of Finance shall comply with all Town policies, procedures, rules and regulations, both written and oral, as are announced by the Town from time to time. It is also understood and agreed to by the Director of Finance that her assignment, duties and responsibilities and reporting arrangements may be changed by the Town in its sole discretion without altering, changing or amending the terms of this agreement.

2. Duties

The Director of Finance is required to perform the following duties and undertake the responsibilities set forth in the hereto attached "Schedule A" in a professional manner

Other duties as may arise from time to time and as may be assigned, either written or orally, to the Director of Finance.

3. Compensation.

(a) As full compensation for all services provided the Director of Finance shall be paid at the annual salary of seventy-thousand (\$70,000.00). Such payments shall be subject to such normal statutory deductions by the Town.

(b) The salary mentioned in paragraph (3)(a) shall be subject to review on an annual basis. (c) The Town shall also authorize reimbursement to the Director of Finance for continuing professional education, in an amount not to exceed three-thousand (\$3,000.00) dollars.

(d) All reasonable expenses arising out of employment shall be reimbursed assuming same have been authorized prior to being incurred and with the provision of appropriate receipts.

4. Benefits & Accruals.

The Director of Finance shall be extended benefits available to other Town Department Heads as is provided in the Town's Organizational or Reorganizational meeting and in accordance with the CSEA White Collar Contract. In lieu of those benefits conferred in Article 7.2 of the CSEA White Collar Contract, the Director of Finance shall receive three (3) weeks paid vacation annually. Benefits and accruals may be revised annually upon the mutual agreement of both parties.

5. Work Hours and Term.

(a) The Director of Finance shall perform all her duties pursuant to the work schedule set forth by the Supervisor.

(b) The Director of Finance shall commence services on October 23, 2017, and pursuant to the NYS Town Law §52(1) the Director of Finance shall serve at the pleasure of the Supervisor.

(c) To terminate this agreement and any obligations hereunder, either party must provide the other with one hundred eighty (180) days written notice.

6. Indemnification and Coverage Under Employer's Bond.

(a) The Town shall indemnify the Director of Finance for any and all acts within its official course of conduct solely to the extent that public officers are indemnified pursuant to the appropriate provisions of New York State Town Law and New York State Public Officers Law.

(b) The Town shall execute a Public Employee's Blanket Bond issued by Fidelity Deposit Company covering the Director of Finance for the term of this Agreement.

7. Laws.

This agreement shall be governed by the laws of the State of New York.

8. Independent Legal Advice.

The Director of Finance acknowledges that the Town has provided the Director of Finance with a reasonable opportunity to obtain independent legal advice with respect to this agreement, and that either:

(a) The Director of Finance has had such independent legal advice prior to executing this agreement, or;

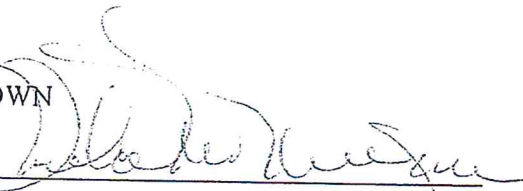
(b) The Director of Finance has willingly chosen not to obtain such advice and to execute this agreement without having obtained such advice.

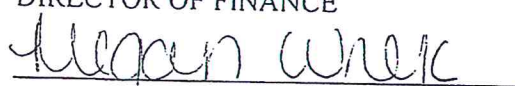
9. Entire Agreement.

This agreement contains the entire agreement between the parties, superseding in all respects any and all prior oral or written agreements or understandings pertaining to the employment of the Director of Finance by the Town and shall be amended or modified only by written instrument signed by both of the parties hereto.

10. Severability.

The parties hereto agree that in the event any article or part thereof of this agreement is held to be unenforceable or invalid then said article or part shall be struck and all remaining provision shall remain in full force and effect.

TOWN

Date: 9-27-2017

DIRECTOR OF FINANCE

Date: 9/19/17

SCHEDULE A

Responsible for the overall coordination and administration of the Town's financial systems, which includes responsibilities in the Budgeting Internal and External auditing control, Investment and Debt Portfolio and management of cash flow;
Assists department heads in the discharge of their fiscal responsibilities;
Serves on various committees and positions as designated by Town Supervisor and/or Town Board Members;
Supplies Supervisor and Town Board Members with various types of data and the general coordination of data to assist them in making Board decisions;
Acts as liaison from and to the Supervisor on various projects and committees.
