

DRAFT

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 #2021-10 of May 17, 2021.

Ayes: All Noes: None Motion Carried

- Motion by Supervisor Dickson, seconded by Councilman Piekarec, to approve minutes from the bid opening for the 2021 Sanitary Sewer Repair Contract S-2101 on May 26, 2021.

Ayes: All Noes: None Motion Carried

LEGAL NOTICES

- Proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO HEAR ALL PERSONS INTERESTED IN A REQUEST FOR A REZONING AND SPECIAL PERMIT FOR PROPERTY LOCATED AT 1465 UNION ROAD, 1471 UNION ROAD, AND 798 CENTER ROAD CHANGING THEIR CLASSIFICATION OF C-1 AND C-2(S) TO C-2(S) FOR USE AS A CAR WASH" in the Town of West Seneca, received and filed.

The item was tabled.

PUBLIC COMMENTS ON COMMUNICATIONS

- A resident stated the Town Clerk and Highway Superintendent should be included in the term limits law
- A resident questioned item number 3, out of district sewer connection, and why this is allowed – Town Attorney Hawthorne stated the applicant does not have the ability to tap into the Orchard Park sewer system due to their location; historically many agreements have been approved for this reason; the applicant will pay according to an equation in the agreement and noted the engineers had no issue with the usage added to the system

NEW BUSINESS

11-A ANNOUNCEMENTS

- Supervisor Dickson re State and Municipal Facilities Program grant extension until March 15, 2022, for the construction of a comfort station and pavilion at Veterans Park
- Supervisor Dickson re Presentation on American Rescue Plan guidelines for use of funds: \$8,508,246

Councilman Bauer stated he would like to schedule meetings to review and discuss possible uses of the money; the sewer systems are a major concern and getting plans and costs drawn up would be beneficial.

Councilman Piekarec expressed support in using a portion of the funds for the sewer systems and questioned the types of highway maintenance that would be approved; repaving roads should be considered.

Councilman Hanley referred to police vehicles/equipment and lost revenue in Recreation, questioning if they would qualify. Supervisor Dickson stated anything that assists the town in providing services are most likely covered but there are unknowns.

- Supervisor Dickson re Fireworks

Chief Denz referred to §270 of NYS Penal Law, some fireworks are legal. To enforce the law, a police officer must witness the event and the perpetrator. The department responds to all complaints and mediates to the best of their ability.

- Supervisor Dickson re Appointment of Marilyn Stephens to the Senior Services Advisory Board
- Councilman Piekarec re Appointment of Donna Duchene to the Senior Services Advisory Board
- Councilman Piekarec re Term Limits

Councilman Piekarec stated he removed the Town Clerk and Highway Superintendent from the term limits after considering feedback from members of the public.

Councilman Cantafio recognized Councilman Piekarec's compromise and questioned if he came across any research that term limits have eliminated the issues of corruption and complacency. Councilman Piekarec replied term limits give new people a chance to serve and is not certain if there is a statistical research study on complacency, any time someone is in a job for a long time they just go through the motions. Councilman Piekarec further stated, corruption is a broad term, in general a multitude of politicians get in trouble, with higher numbers in Congress and the State legislature than local towns and believes it could happen. Additionally, people get less arrogant when they have been in a position for a shorter time.

Councilman Cantafio presented research on corruption and complacency covering the last thirty years including over forty studies on local, state, and national governments:

- ✓ Most corruption occurs within the first two terms
- ✓ Term limits increase the special interest in party leaders
- ✓ Term limits lead to politicians shirking responsibility
- ✓ Term limits result in higher spending
- ✓ Quality of government decreases - lack of responsiveness to constituents as office holders will run for another office or become anointers with party leaders
- ✓ No differences in composition or demographics with candidates that would replace office holders
- ✓ NYS 2016 statistic: out of 932 towns, only 8 have term limits
- ✓ Both sides of the isle have said leadership on its way out would have less incentive to restrain unpopular impulses
- ✓ Dr. Yacobucci, of Buffalo State College, conducted a peer review summary which included over 40 studies which showed: the overall negative impacts in term limits outweigh the potential benefits; with over thirty years of extensive research in the US and abroad, it's become clear term limits result in more harm than good, term limits are a direct attack on the democratic process by removing the candidates that appeal to the electorate

Councilman Cantafio reiterated he will weigh the research with the thoughts presented as well as the voters' wishes; further, term limits was not a concern he was made aware of by constituents. Councilman Cantafio questioned if the term limits law will achieve the benefits being sought when research has shown otherwise. One example being the downsizing and, ultimately, upsizing of the Town Board. Councilman Cantafio invited Councilman Piekarec to present research to support his argument for term limits.

Councilman Piekarec reviewed the history of town elections and stated term limits open the opportunity to newcomers; further stating it is his opinion term limits take the power away from party bosses and special interests.

Councilman Cantafio stated his agreement with more people being involved and the voters having more options, but research has shown term limits have the opposite effect.

Supervisor Dickson referred to the power of the party bosses and incumbents anointing their successor, believing this to be true. Supervisor Dickson observed this has not happened in the last twenty years in West Seneca in the Supervisor's race; the Councilman races are very competitive, the Town Clerk has not had opposition for the last twenty years, and the Highway Superintendent has had only one competitive race.

Town Attorney Hawthorne stated referendums are governed by NYS Municipal Home Rule Law, §23 and 24 identify items that are subject to mandatory or permissive referendums. There is no provision that allows a legislative body, like a town board, to determine for itself whether they are going to make an item subject to a referendum. Further, case law refers to this as an advisory referendum – taking the temperature of the voters - and is prohibited by NYS case law as it shifts the burden of decision making responsibility onto the residents. In Ms. Hawthorne's opinion this would be an advisory referendum.

Councilman Piekarec stated most town boards have passed the term limits laws with Tonawanda being the only one that had a referendum; no legal challenges have been made. Town Attorney Hawthorne concurred but cannot find anything about the actual referendum to know if it was correct or not.

Councilman Cantafio stated he respectfully disagreed that this would be an advisory referendum but will be able to decide in the best interest of the town and reiterated that term limits was not an issue brought to his attention.

Councilman Hanley stated he liked term limits under the right circumstances but agrees with Councilman's Bauer's statements about the obligation and privilege voters have to limit terms; it is not fair for the current Town Board to set the term limit. The online poll represented less than 1% of the town. Long term office holders do offer benefits to the town and there has not been an instance of corruption in the town. Only three municipalities in Western New York have term limits. Further, a study from 1990 stated term limits result in short sighted policies. States with term limits are more likely to run year end general fund balances on average 2% lower than states without term limits.

Councilman Bauer stated many have experienced the problem of finding good, dedicated employees and would hate to lose good people because of term limits. Councilman Piekarec replied this would not apply to department heads and employees.

A resident questioned if they could walk a petition to force a referendum. Town Attorney Hawthorne stated it does not fall under that section of the law.

11-B COMMUNICATIONS TO BE VOTED ON

1. Councilman Piekarec re Resignation of Michael Casciano from Internal Audit Committee

Motion by Supervisor Dickson, seconded by Councilman Piekarec, to accept the resignation of Michael Casciano from the Internal Audit Committee effective May 5, 2021.

Ayes: All

Noes: None

Motion Carried

2. Town Attorney Hawthorne re Historic Preservation – Preservation Studios Proposal

Motion by Councilman Bauer, seconded by Councilman Piekarec, to adopt the following resolution for the engagement of professional services provided by Preservation Studios pursuant to the attached proposal to assist the town with historic preservation of buildings and structures:

WHEREAS, the Town of West Seneca (hereinafter referred to as "Town") recognizes that there exists places, sites, structures, and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction in the Town that should be conserved, protected and preserved to maintain the architectural character of the Town, to contribute to the aesthetic value of the Town, and to promote the general good, welfare, health and safety of the Town and its residents; and

WHEREAS, the Town seeks to utilize the Preservation Studios to provide professional services to assist the Town in preserving the structures and buildings of historic or architectural significance by adoption of a local law, public outreach and education, establishment of a historic preservation commission,

training the commission members, guidance related to commission activities, and the establishment of design guidelines; and

NOW THEREFORE, be it resolved that the Town Board hereby accepts the written proposal by Preservation Studios and authorizes the Supervisor to execute any necessary documents for the engagement of Preservation Studios as per the attached proposal.

On the question, Councilman Bauer stated this is a onetime fee, the intent to get the preservation commission established, going forward they can apply for grant funding to repair and/or purchase the properties, over fifty properties that are over 140 years old. There will be a public meeting to hear from the property owners.

A representative from Preservation Studio's stated the current board has previously heard a presentation. There are many properties that can benefit from grant funding for historical preservation, but a formal preservation commission must be established first. Most of the surrounding communities have commissions.

Supervisor Dickson stated there is money allocated and it will not impact the budget.

Ayes: All

Noes: None

Motion Carried

3. Town Attorney re Out of District Sewer Connection Agreement – Sanitary Sewer District No. 20

Motion by Supervisor Dickson, seconded by Councilman Bauer, to authorize the Supervisor, on behalf of West Seneca Sanitary Sewer District No. 20, to execute the necessary documents to enter into an Out of District Sewer Connection Agreement with Speedway to furnish sanitary sewer facilities noting this connection been approved by both the Town of Orchard Park and the Town of West Seneca's Engineers.

Ayes: All

Noes: None

Motion Carried

4. Town Attorney re Local Law No. 4 Revised Tree Ordinance

A public hearing will be scheduled on June 28, 2021, to repeal Chapter 110 of the Town of West Seneca Code and replace it with a new proposed Chapter 110, the revised Tree Ordinance.

Town Attorney Hawthorne stated the most changes were made to §110-15 penalties for offences.

5. Town Engineer re Bid Award – 2021 Emergency Sanitary Sewer

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to accept the base bid of \$142,815.86 from D'Amorie Construction, noting they were the low bidder, and award the 2021 Sanitary Sewer Repair Contract to D'Amorie Construction for one year starting in June 2021 with the option to extend annually for two additional years.

Ayes: All

Noes: None

Motion Carried

6. Town Clerk re Appointment of Lindsey Rose as part-time Clerk Typist

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to rescind the appointment of Lindsey Rose as part-time Clerk Typist in the Town Clerk's office as previously approved at the May 17, 2021 Town Board meeting.

Ayes: All

Noes: None

Motion Carried

7. Highway Sup't. re Appointment of James Schafer and Samuel Vona as part-time seasonal Buildings & Grounds Laborers

Motion by Supervisor Dickson, seconded by Councilman Hanley, to appoint James Schafer and Samuel Vona as part-time seasonal Laborers in the Buildings & Grounds Department effective June 1 – November 19, 2021 at a rate of \$12.50 per hour contingent upon completion of paperwork and passing of drug and alcohol testing and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

8. Chief Denz re Appointment of Robert Pattison and Daniel Shanahan as part-time Public Safety Dispatchers

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to appoint Robert Pattison and Daniel Shanahan as part-time Public Safety Dispatchers effective June 4, 2021 at a rate of \$20 per hour and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

9. Chief Denz re Bid for vehicle purchase

Motion by Supervisor Dickson, seconded by Councilman Hanley, to authorize Chief Denz to draw up specifications and set a purchase bid on the NYS Office of General Services Vehicle Market Place for the purchase of two (2) new 2021 Chevrolet Tahoe SUV marked police vehicles, noting funding is available through the 2021 police vehicle purchase line item 1.3120.0208.

Ayes: All

Noes: None

Motion Carried

10. Director of Finance re Transfer of Funds – Splash Pad project

Motion by Supervisor Dickson, seconded by Councilman Bauer, to authorize a payment in the amount of \$430.14 from the Building Recreation Fees Trust Fund 04.000000.20032 for expenditures related to the Splash Pad project.

Ayes: All

Noes: None

Motion Carried

11. Director of Finance re Budget transfer – Historical Preservation Committee

Motion by Supervisor, seconded by Councilman Bauer, to authorize a budget transfer in the amount of \$3,825.00 from Celebrations – July 4th Celebration 01.7550.0474 to Historical Preservation Committee – Other Contractual Expenses 01.8070.0415 to cover the expenses related to the creation of the committee.

Ayes: All

Noes: None

Motion Carried

12. Director of Finance re Budget transfer – CARES Act reallocation

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution:

WHEREAS, on January 14, 2021, New York State Department of Labor Commissioner Roberta Reardon signed an Order that temporarily cancels unemployment insurance charges to employers for the duration of the COVID-19 pandemic;

WHEREAS, this made unemployment costs unallowable for reimbursement under the CARES Act guidelines;

WHEREAS, the Town of West Seneca was reimbursed for unemployment insurance costs in the amount of \$89,337.24 as part of their CARES Act reimbursement prior to this change;

WHEREAS, on May 6, 2021, Erie County Division of Budget and Management notified the Town of West Seneca the opportunity to re-allocate the amount of reimbursed unemployment insurance expenses to other COVID-19 expenses;

NOW, THEREFORE, be it

RESOVLED, that the Town Board does hereby authorize the following 2021 budget transfer to account for the re-allocation of COVID-19 expenditures covered by the Federal CARES Act.

From:	01.0001.4950	Federal Aid – CARES Act	9,943.68
	01.9070.805	Unemployment Insurance	38,206.30
To:	02.0002.4950	Federal Aid – CARES Act	9,943.68
	01.1620.434	COVID 19 Expenditures	4,933.79
	01.7110.434	COVID 19 Expenditures	23,328.83
	02.5110.434	COVID 19 Expenditures	7,800.00
	02.5140.434	COVID 19 Expenditures	73.13
	02.9089.434	COVID 19 Expenditures	2,070.55

Ayes: All

Noes: None

Motion Carried

13. Director of Senior Services re Status change for part-time Food Service Worker Marirose Bless to seasonal

Motion by Supervisor Dickson, seconded by Councilman Hanley, to change the status of part-time food service worker Marirose Bless to seasonal effective June 7 – June 30, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

14. Recreation Supervisor re Appointment of Kimberly Bryant as a part-time Clerk Typist

Motion by Supervisor Dickson, seconded by Councilman Hanley, to appoint Kimberly Bryant as a part-time Clerk Typist in the Recreation Department at the rate of \$14 per hour effective June 4, 2021 contingent upon a background check, drug test, and proof of physical as outlined by Town Code Chapter 25, noting this position will be paid from line Salary of Clerical – Part Time 0171400050138 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

15. Recreation Supervisor re Termination of Abigail Wieczorek as a part-time Lifeguard

Motion by Supervisor Dickson, seconded by Councilman Hanley, to terminate Abigail Wieczorek as a part-time Lifeguard effective June 3, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

16. Recreation Supervisor re West Seneca Kiwanis Club Annual Craft Show and Chicken BBQ

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to authorize the Supervisor to execute the necessary documents to enter into an agreement with the West Seneca Kiwanis Club for their Annual Craft show and Chicken BBQ event on August 7, 2021.

Ayes: All

Noes: None

Motion Carried

17. Recreation Supervisor re West Seneca Women's Club

Motion by Supervisor Dickson, seconded by Councilman Hanley, to authorize the Supervisor to execute the necessary documents to enter into an agreement with the West Seneca Women's Club for use of the Soccer Park between May 27 – June 10, 2021.

Ayes: All

Noes: None

Motion Carried

18. Recreation Supervisor re Cancellation of summer swim lessons

Motion by Supervisor Dickson, seconded by Councilman Hanley, to cancel all "Summer 2021 Swim Lessons" and authorize the issuance of refunds in June to those enrolled, noting the refunds will include the program fee only as the credit card transaction fees charged by the processing company are not refundable.

Ayes: All

Noes: None

Motion Carried

19. Recreation Supervisor re Termination of Evan Koehler as part-time Recreation Attendant

Motion by Supervisor Dickson, seconded by Councilman Piekarec, to terminate Evan Koehler as a part-time Recreation Attendant effective June 3, 2021, and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

20. Recreation Supervisor re Appointment of Kelsey Piatek and Anna Mucha as part-time seasonal Recreation Attendant

Motion by Supervisor Dickson, seconded by Councilman Hanley, to appoint Kelsey Piatek and Anna Mucha as a part-time seasonal Recreation Attendants at the following rates and possible bonuses effective June 3 – September 1, 2021 contingent upon a background check, drug test, and proof of physical as outlined by Town Code Chapter 25, obtaining all required certifications by the deadlines, and attending all trainings/orientations, noting these positions will be paid from line Salary of Other Employees – Part Time 1.7140.0149 and further authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel:

Kelsey Piatek \$14.50 per hour, bonus of \$250

Anna Mucha \$14.00 per hour, bonus \$250

Ayes: All

Noes: None

Motion Carried

11-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 - \$325,753.23 and \$38,081.61; Highway Fund - \$93,306.60; Sewer District - \$142,213.50 and 3,350.41; Gas Conversion Lighting Districts - \$84.18 and 106.20; Electric Lighting - \$688.17 and 626.21 (vouchers 16960 – 17534 and 17001 - 17640)

Ayes: All

Noes: None

Motion Carried

11-D DEPARTMENT REPORTS

- Engineering Department updates received and filed.
- Code Enforcement Department updates received and filed.

ISSUES OF THE PUBLIC

James Manley of the Joint Veterans Committee requested the Town Board create a committee to explore the restoration of the Gatling gun, which has an estimated value of \$250,000. Supervisor Dickson asked how much this might cost and who might do the restoration. Mr. Manley does not know the cost and knew at one time the University at Buffalo had a department that performed restorations. Supervisor Dickson discussed the size of the gun and the amount of space needed. Councilman Cantafio volunteered to be on the committee as there is much history involved. Director of Senior Services offered space at the Senior Center as many veterans are members.

COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

Recreation Supervisor Masset

- Approximately 60 families will be receiving refunds
- Splash pad and mushroom are not effected by staffing shortages

Councilman Hanley

- Complaints about the canopy at abandoned gas station at Mineral Springs Road and Harlem Road, working with Code Enforcement, considering demolition

Supervisor Dickson

- Marijuana dispensaries options, consider the revenue from sales – approximately \$80,000; would like a broad survey to be conducted; Chief Denz stated his opinion on the legalization of marijuana: law was rushed, does not address many issues including the sale of edibles – which account for three quarters of consumption, black market of marijuana from Canada is exploding across the country, will not be a large money generator, encouraged the Town Board to survey other municipalities.

Councilman Piekarec questioned how zoning may be impacted – Town Attorney Hawthorne replied she does not know at this point. Supervisor Dickson believes dispensaries are retail businesses and must following the appropriate zoning; further the town can require retail marijuana businesses to have a special use permit.

Councilman Cantafio

- Encouraged all to participate in the survey or to contact any council member
- Deer Task Force had first meeting
- Commended Jim Manley on the Memorial Day Ceremony; soloist is a student from West Senior High School - Talia Mobley

Councilman Bauer

- Apologized to the families affected by the cancelling of the swim lessons; would like to pursue a full-time position for the Recreation Department

Director of Senior Services

- June newsletter is online
- Membership is free, eligible at fifty years of age

FARMERS MARKET

- Lions Bandshell concerts to resume in July
- Farmer's Market is held every Thursday

ADJOURNMENT

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adjourn the meeting at 7:41 P.M.

Ayes: All

Noes: None

Motion Carried

AMY M. KOBLER, TOWN CLERK