

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

**TOWN BOARD PROCEEDINGS**  
**Minutes #2013-12**  
**May 29, 2013**

Supervisor Sheila M. Meegan called the meeting to order at 2:00 P.M. with 30 seconds of silent prayer followed by the Pledge of Allegiance to the Flag led by Highway Supt. Matthew English.

**ROLL CALL:** Present - Sheila M. Meegan Supervisor  
John M. Rusinski Councilman  
Eugene P. Hart Councilman

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 William Crehan and Dorothy Linhardt.

---

**12-A MINUTES TO BE APPROVED**

- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve minutes from the May 13, 2013 work session.

Ayes: All                                      Noes: None                                      Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve minutes #2013-11 of May 13, 2013.

Ayes: All                                      Noes: None                                      Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Hart, to approve minutes from the May 22, 2013 bid opening for the Ice Rink Floor Replacement Project.

Ayes: All                                      Noes: None                                      Motion Carried

**12-B LEGAL ITEMS**

- Proofs of publication and posting of legal notice: "OF THE ADOPTED RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM AUTHORIZING THE CONSTRUCTION OF AN ADDITION TO THE TOWN POLICE HEADQUARTERS AND TO CONSTRUCT CERTAIN RENOVATIONS TO THE EXISTING PORTION OF THE POLICE HEADQUARTERS, LOCATED AT THE TOWN HALL, 1250 UNION ROAD, WEST SENECA, NEW YORK AT A COST OF \$2,000,000" in the Town of West Seneca, received and filed.
- Proofs of publication and posting of legal notice: "OF THE ADOPTED RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM AUTHORIZING THE CONSTRUCTION OF A RESTROOM AND STORAGE BUILDING AT BURCHFIELD PARK AND THE UNDERTAKING OF REHABILITATION AND MOLD ABATEMENT AT METZ HOUSE AND GENERAL IMPROVEMENTS AS NEEDED IN ANY OR ALL OF THE TOWN RECREATIONAL FACILITIES AT A COST OF \$300,000" in the Town of West Seneca, received and filed.

**12-B LEGAL ITEMS**

3. Proofs of publication and posting of legal notice: OF THE ADOPTED RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM AUTHORIZING THE CONSTRUCTION OF CERTAIN HIGHWAY IMPROVEMENTS INCLUDING BUT NOT LIMITED TO THE RECONSTRUCTION OF GREENBRANCH ROAD, LARKWOOD ROAD, CARDINAL LANE, WOODMAR TERRACE AS WELL AS ADDITIONAL REPAIRS AND IMPROVEMENTS AS NECESSARY TO HIGHWAYS THROUGHOUT THE TOWN AT A COST OF \$2,400,000” in the Town of West Seneca, received and filed.

**12-C COMMUNICATIONS**

1. Supervisor Meegan re Appointment as Marriage Officer  
Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Supervisor Sheila M. Meegan as Marriage Officer with the authority to solemnize marriages occurring within the Town of West Seneca as authorized in Domestic Relations Law Section 11-C.

Ayes: All                      Noes: None                      Motion Carried

2. Supervisor Meegan re Support for Legislation Amendment to Real Property Tax Law (RPTL) Section 102 (i)  
Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the attached resolution in support of legislation amendment to Real Property Tax Law (RPTL) Section 102 (i) to include and memorialize fiber optic cable as part of outside plant for tax assessment purposes consistent with the intent of a 1986 amendment to Section 102.

Ayes: All                      Noes: None                      Motion Carried  
\*APPENDICES\*

3. Town Engineer re Bid award for Ice Rink Flooring Contract  
Motion by Supervisor Meegan, seconded by Councilman Hart, to award the bid for the Ice Rink Flooring Contract to Ice Builders Supply, Inc., 4628 Crossroads Park Dr., Liverpool, NY 13088 at their low bid amount of \$135,680 noting that funding for this project will be paid from the general fund and reimbursed through State grant funding.

On the question, Councilman Rusinski stated this project was rebid while waiting for grant funding to be processed through the state.

Town Engineer Steven Tanner stated that based on discussions with Supervisor Meegan and Grantwriter Connie Miner the grant was approved and money will be reimbursed after it is spent.

Ayes: All                      Noes: None                      Motion Carried

**12-C COMMUNICATIONS**

4. Town Engineer re Appointment of Eric Labrie as summer intern in the Engineering Department
- Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Eric Labrie as summer intern in the Engineering Department effective June 3 - August 31, 2013 at a rate of \$12/HR and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All                      Noes: None                      Motion Carried

On the question, Councilman Hart questioned Eric Labrie's qualifications.

Town Engineer Steven Tanner responded Mr. Labrie was in the military from 2002 - 2008, is currently finishing his second year at ECC and will be receiving his associate's degree in civil engineering with hopes of pursuing a bachelor's degree. Applicants were interviewed and Mr. Labrie was the best candidate for the job.

Ayes: All                      Noes: None                      Motion Carried

5. Chief Denz re Retirement of Officer Daniel L. Szymanski
- Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the retirement of Daniel L. Szymanski and terminate him as Police Officer effective May 31, 2013 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel, noting that Officer Szymanski served the town for 36 years.

On the question, Councilman Rusinski thanked Officer Szymanski for his service on behalf of entire Town Board.

Ayes: All                      Noes: None                      Motion Carried

6. Town Clerk re E-Z Pass on-the-Go Retail Sales Program
- Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize the Town Clerk's Office to sell E-Z Passes in accordance with the E-Z Pass On-the-Go Retail Sales Agreement.

On the question, Councilman Rusinski commented on how busy the Town Clerk's office is and complimented Town Clerk Jacqueline Felser and her staff for providing the community with another service.

Councilman Hart questioned if the town receives a commission on E-Z pass sales and Mrs. Felser responded that the profit is \$4 per E-Z pass sold.

Ayes: All                      Noes: None                      Motion Carried

**12-C COMMUNICATIONS**

- 7. Director of Recreation re Summer program appointment & status changes in the Recreation Dept.

Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Matt Wach as part-time seasonal attendant in the Recreation Department at a rate of \$7.75/HR; and further change the status of Dan Lewis, Ben Blandin and Kayleigh Baker to part-time seasonal effective June 1 – August 30, 2013 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

On the question, Councilman Hart questioned the process for seeking applicants.

Director of Recreation Craig Kroll responded that Recreation Department openings are advertised on the website and after receipt of over 40 applications and completion of 21 interviews, 13 -14 new hires will be recommended in addition to returning employees. Drug screening & background checks are included in the pre-employment packet given to new hires.

Ayes: All

Noes: None

Motion Carried

- 8. Supervisor Meegan re Resolution in support of Jackie's Law

Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the attached resolution in support of Jackie's Law as proposed by NYS Senator Timothy M. Kennedy making it a Class E felony to use a GPS device to track a person's movement without their consent.

On the question, Councilman Hart questioned if an individual can be charged for use of a GPS tracking device in a vehicle independent from the victim.

Chief Denz responded that the totality of the circumstances would dictate whether or not charges could be filed. He noted that legislation is quite often slower than technology and current laws do not include specific language regarding GPS tracking.

Supervisor Meegan commented that changes in this law will permit law enforcement to respond and allow cell phone users to be notified when GPS tracking has been activated on their phone.

Ayes: All

Noes: None

Motion Carried  
\*APPENDICES\*

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

**TOWN BOARD PROCEEDINGS**  
**Minutes #2013-12**  
**May 29, 2013**  
**Page five . . .**

**12-D APPROVAL OF WARRANT**

Motion by Supervisor Meegan, seconded by Councilman Rusinski, to approve the vouchers submitted for audit, chargeable to the respective funds as follows:

General Fund - \$235,407.05; Highway Fund - \$78,668.43; Special Districts - \$25,757.41; (voucher #'s 78125-78764); Trust & Agency Fund - \$62,787.30 (voucher #'s 78546-78743); Capital Fund - \$355,813.73 (voucher #'s 78602-78672)

Ayes: All

Noes: None

Motion Carried

**ISSUES OF THE PUBLIC**

**ELECTRONICS RECYCLING EVENT**

Mitch Martin from Senator Patrick Gallivan's office announced that the Senator is hosting a free electronics recycling event at East Senior High School on Saturday, June 8, 2013 (9 am – 2 pm), for drop-off and disposal of computers, TV sets, electronics and small appliances.

**PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS**

**ERIE COUNTY COMMUNITY FORUM**

Supervisor Meegan announced that Attorney General Eric Schneiderman is conducting an Erie County Community Forum at Burchfield Penney Art Center at Buffalo State College on Monday, June 3, 2013 at 6:00 pm. Topics of discussion will include Environmental Protection, Labor & Civil Rights, Health Care and Consumer Fraud Protection.

**CARDINAL, LARKWOOD, WOODMAR & GREENBRANCH ROAD RECONSTRUCTION**

Town Engineer Steven Tanner stated he met with the contractor for the road reconstruction project on Cardinal, Larkwood, Woodmar & Greenbranch Road. Contracts for the project have been signed and a start date will be forthcoming with details posted on the town's website.

**SEWER PROJECT**

Town Engineer Steven Tanner stated the next agenda will include work commencing on the bonded sewer project that includes 120,000 ft. of sewer lining, 290 manhole repairs and 1,600 ft. of new pipe.

**PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS**

**RECEIVER WORK/REPAIR**

Councilman Hart questioned the reason for all the cones around certain receivers in town, inquiring specifically on DI's (drainage intakes) in need of repair on Clinton Street.

Highway Supt. Matthew English responded the Highway Department is doing repair work on DI's located on town roads. DI's located on Clinton Street are maintained by the State.

**EXECUTIVE SESSION**

Motion by Supervisor Meegan, seconded by Councilman Hart, to recess to Executive Session at 2:25 P.M. to discuss a personnel matter and a legal issue.

Ayes: All

Noes: None

Motion Carried

The board members returned from Executive Session at 3:20 P.M.

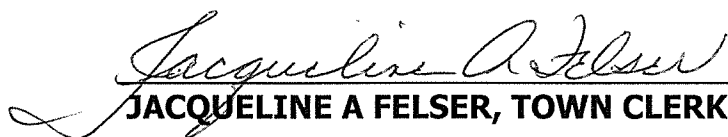
**ADJOURNMENT**

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 3:20 P.M.

Ayes: All

Noes: None

Motion Carried

  
\_\_\_\_\_  
JACQUELINE A FELSER, TOWN CLERK

Resolution

SUPPORT FOR LEGISLATION AMENDMENT TO RPTL SECTION 102 (i)

**WHEREAS**, Fiber optic cable located on private property has been part of the Outside Plant roll section 6 assessment under Section 102(i) of Real Property Tax since the 1980's. Which is consistent with the valuation of fiber optic cable located within the public right of way defined as Special Franchise property and,

**WHEREAS**, Amendments to Section 102 (i) of Real Property Tax in 1985 and 1987 were never intended to exclude fiber optic cable or other emerging technology from Outside Plant roll section 6 and,

**WHEREAS**, Until a recent decision by the Appellate Division, First Department removing fiber optic cable from Outside Plant roll section 6, fiber optic cable had been part of the Outside Plant assessment for over 25 years, and

**WHEREAS**, Across New York State hundreds of millions of dollars in tax base are in jeopardy of being lost creating a significant impact on Town, County and School taxes,

**NOW THEREFORE, BE IT RESOLVED** That the Association of Erie County Governments including the Town of West Seneca hereby supports the Erie County Assessor's Association and respectfully request the New York State Legislature to amend Section 102 (i) of Real Property Tax Law to defining, include and memorialize fiber optic cable as part of Outside Plant for tax assessment purposes consistent with the intent of a 1986 amendment to Section 102. And which is consistent with the valuation of fiber optic cable as Special Franchise property.

**BE IT RESOLVED THAT** the Association of Erie County Governments including the Town of West Seneca supports the Erie County Assessor's Association regarding the proposed amendment to RPTL section 102(i).

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to Honorable Governor Andrew M. Cuomo, Honorable Senate Majority Leader Dean Skelos, Majority Leader of Independent Democratic Caucus Jeff Klein, Honorable Senate Minority Leader Andrea Stewart-Cousins, Honorable Speaker of the Assembly Sheldon Silver, Honorable Leader of the Assembly Joseph Morelle, Honorable Minority Leader of the Assembly Brian Kolb, and the Western New York Delegation and Erie County Executive Mark Poloncarz and the Erie County Legislature.

## **RESOLUTION IN SUPPORT OF "JACKIE'S LAW"**

**Whereas**, in the months prior to the tragic murder of Jackie Wisniewski, Jackie discovered a GPS tracking device that Timothy Jordan had installed on her car to stalk her and follow her movements and location. This specific action could not be deemed criminal due to a gap in state law. Just months later, in June 2012, Jordan shot and killed Wisniewski in a stairwell at ECMC.

**Whereas**, NYS Senator Timothy M. Kennedy, 63<sup>rd</sup> District, Western New York has proposed legislation to close this gap in the law. It's called **Jackie's Law**, and it will empower law enforcement to pursue charges and prosecute individuals who install GPS tracking systems with the intent of stalking another person.

**Whereas**, currently there is no legal statute that specifically outlaws the use of GPS devices in stalking cases. **Jackie's Law** adds a new section to the state's penal code, under "Unlawful Surveillance in the Second Degree," which makes the use of a GPS device to track a person's movement, without their consent, a class E felony. Those convicted of a class E Felony can face up to 4 years in prison.

**Whereas**, this legislation allows law enforcement to prosecute perpetrators for the crime of unlawful surveillance, without requiring the victim to file an Order of Protection or press charges. Law enforcement will have the ability to charge and prosecute an individual with a felony offense if he or she installs a GPS device to track the movement or location of their victim.

**Now Therefore Be It Resolved**, that the Town of West Seneca fully supports Senator Kennedy's proposed legislation, **Jackie's Law**.

**And Be It Further Resolved**, that a copy of this resolution be sent to New York State Senator Patrick M. Gallivan.