

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

**TOWN BOARD PROCEEDINGS**  
**Minutes #2016-02**  
**January 25, 2016**

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 Mitch Martin.

**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 Thomas Zawodzinski.

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**2-A MINUTES TO BE APPROVED**

- Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve minutes from the January 11, 2016 work session.

Ayes: All Noes: None Motion Carried

- Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve Minutes #2016-01 of January 11, 2016.

Ayes: All Noes: None Motion Carried

**2-B LEGAL ITEMS**

1. Motion by Supervisor Meegan, seconded by Councilman Hart, that proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO CONSIDER AN INCREASE AND IMPROVEMENT OF STREET LIGHTING FACILITIES OF ELECTRIC LIGHTING DISTRICTS 1 – 35, 38 – 42 AND 55 AND ELSEWHERE IN THE TOWN IN PREPARATION FOR THE PURCHASE OF THE FACILITIES FROM NEW YORK STATE ELECTRIC & GAS CORPORATION (NYSEG) AND CONVERSION OF THE FACILITIES TO LED LIGHTING FOR THE BENEFIT OF STREET LIGHTING SYSTEM USERS IN THE DISTRICTS" in the Town of West Seneca, be received and filed.

Ayes: All Noes: None Motion Carried

Motion by Supervisor Meegan, seconded by Councilman Hart, to open the public hearing.

Ayes: All Noes: None Motion Carried



**2-B LEGAL ITEMS**

Motion by Supervisor Meegan, seconded by Councilman Hart, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Local Law #2016-01

Code Enforcement Officer John Gullo stated the title of Chapter 54 is being changed to Brush, Grass, Weeds and Debris and he outlined the changes as follows:

§54-1: Added to the sentence: "including the accumulation of debris."

Definitions: Added "Debris – refuse, trash, scrap, or things no longer useful or wanted; accumulation that is left to be discarded. At times the Code Enforcement office will use their discretion on these items to be cleaned."

§54-3: Added "(F) All parcels of any size shall be free of debris."

§54-6: Added "debris" to the paragraph and rephrased failure to comply sentence.

§54-7: Removed the first sentence regarding the Highway Department's involvement and added a paragraph concerning an additional annual fee of \$200 for administrative costs, noting this fee addresses administrative time involved.

Councilman Hart questioned if there could be a problem with trespassing. Mr. Gullo responded it will be by court order that Code Enforcement will be authorized to be present.

Mrs. Lucachik questioned if the name of a person making a complaint is given out. Mr. Gullo responded that his office does not divulge that information.

Local Law #2016-02

Code Enforcement Officer John Gullo stated this will address problems with combination units that do not illuminate the exits properly when the power is out. §75-6.5 will be amended to add: "(F) When emergency lighting is required to be located in structures, the town does not permit the combination of exit/emergency lighting. The intent is to illuminate the exit and exit ways. With automatic generator installations, emergency lighting is not required."

Local Law #2016-03

Code Enforcement Officer John Gullo stated the modification to §90-14(B) will change the date for the annual plumbing exam to February instead of June with the entrance fee to be set by the Town Board pursuant to adoption of an annual fee schedule.

**2-B LEGAL ITEMS**

2. (continued)

Local Law #2016-04

Code Enforcement Officer John Gullo stated the modification to §66-4 (C) will remove the fee from the Town Code and the Town Board will instead adopt an annual fee schedule.

Local Law #2016-05

Town Attorney John Fenz stated this modification to §30 will codify the policy adopted by the Town Board in July 2015.

Councilman Hart suggested that instead of calling out specific threshold amounts in our local law, the wording be stated to reflect the amounts pursuant to New York State General Municipal Law §103. This will prevent the need to modify West Seneca's local law when the amounts change in state law.

Mr. Fenz stated he will revise this local law and republish it for a future meeting.

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

Ayes: All	Noes: None	Motion Carried
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Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt Local Law Nos. 1, 2, 3 and 4 as attached.

Ayes: All	Noes: None	Motion Carried *APPENDICES*
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3. Proofs of publication and posting of legal notice: "OF THE ADOPTED RESOLUTION, SUBJECT TO PERMISSIVE REFERENDUM, AUTHORIZING THE PURCHASE OF THE FOLLOWING VEHICLES: ONE 2016 FORD ESCAPE - \$23,010; TWO 2016 FORD F250'S - \$53,357.84 (PIGGYBACK PURCHASE WITH TOWN OF DARIEN IN ACCORDANCE WITH GENERAL MUNICIPAL LAW SECTION 103); TWO 2016 FORD F350'S - \$67,000 (NYS CONTRACT #PC66774SB) WITH FUNDS AVAILABLE IN THE HIGHWAY RESERVE FUND; AND TWO 2016 FORD F150'S - \$48,498.29 (OFF ERIE COUNTY BID #215200-004); TWO 2016 FORD F250'S - \$53,357.84 (PIGGYBACK PURCHASE WITH TOWN OF DARIEN IN ACCORDANCE WITH GENERAL MUNICIPAL LAW SECTION 103) WITH FUNDS AVAILABLE IN THE GENERAL RESERVE FUND" in the Town of West Seneca, received and filed.

**2-C COMMUNICATIONS**

1. Highway Sup't. re Rate increase for part-time sanitation and highway employees

Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve the minimum wage increase from \$8.75 to \$9.00 per hour for the following employees as of December 31, 2015:

Part-time Sanitation:

Steven Amoia	Austin Boehm	Nicholas Gugliuzza	Adam Karyczak
Norman Locher	Kevin O'Shaughnessy	Matthew Schultz	Robert Walsh
Timothy Stevenson	Mackenzie Szakes		

Part-time Highway:

Roger White

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

On the question, Councilman Hart stated he is abstaining from this vote because Robert Walsh is his cousin.

Ayes: (2) Supervisor Meegan, Councilman Hanley

Noes: None

Abstentions: (1) Councilman Hart

Motion Carried

2. Highway Sup't. re Appointment of Francis Malota as Sanitation Motor Equipment Operator

Motion by Supervisor Meegan, seconded by Councilman Hanley, to terminate Francis Malota as Sanitation Laborer and appoint him as Sanitation Motor Equipment Operator at a rate of \$19.64 per hour effective January 18, 2016 and authorize the Supervisor to complete and sign the necessary forms with Erie County Personnel.

Ayes: All

Noes: None

Motion Carried

3. Highway Sup't. re Appointment of Nicholas Gugliuzza as Sanitation Laborer

Motion by Supervisor Meegan, seconded by Councilman Hanley, to terminate Nicholas Gugliuzza as part-time Sanitation Laborer and appoint him as full-time Sanitation Laborer at a rate of \$18.65 per hour effective January 26, 2016 contingent upon 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

**2-C COMMUNICATIONS**

4. Chief Denz re purchase of weapons operation systems

Motion by Supervisor Meegan, seconded by Councilman Hanley, to approve the purchase of two (2) full AR-15 weapons operation systems along with eight (8) Surefire Suppressor adaptors from Amchar Wholesale, Inc., 100 Airpark Drive, Rochester, at NYS bid pricing for a total cost of \$12,478 with funds available that can be earmarked through police budgetary line 001.3102.0419.

On the question Chief Denz stated this purchase will put the Police Department in a good position to handle situations law enforcement agencies are currently facing. Officers are qualified twice a year and complete two additional training sessions outside of qualification.

Ayes: All

Noes: None

Motion Carried

5. Chief Denz re Rate increase for part-time Public Safety Dispatcher David Pangallo

Motion by Supervisor Meegan, seconded by Councilman Hanley, to increase the hourly rate of part-time Public Safety Dispatcher David Pangallo from \$10.95 per hour to \$11.45 per hour retroactively as of December 26, 2015 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel, noting Mr. Pangallo has achieved the required 1400 hours for this increase.

Ayes: All

Noes: None

Motion Carried

6. Chief Denz re Attendance of officers at ILEETA training conference

Motion by Supervisor Meegan, seconded by Councilman Hart, to authorize Captain Robert Sporysz and one (1) other officer to attend the International Law Enforcement Educators and Trainers Association (ILEETA) training conference in Rosemont, Illinois, March 14 - 18, 2016 at a total cost not to exceed \$3,100 with funds available in the police training course line item 1.3120.0459.

On the question, Chief Denz stated Captain Sporysz is in charge of training for the entire Police Department. The department has been attending this conference for more than 20 years and it includes topics on modern law enforcement.

Ayes: All

Noes: None

Motion Carried

**2-C COMMUNICATIONS**

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| 7. Code Enforcement Officer re Rezoning request – corner of Indian Church and Union Road | Motion by Supervisor Meegan, seconded by Councilman Hanley, to refer to the Planning Board the request for a rezoning from C-1 to C-2 for property located at 1371 & 1377 Indian Church Road and 1926, 1934 & 1954 Union Road to allow a restaurant with drive-thru. |
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On the question, Councilman Hart stated that significant changes were made to the original plan submitted and this will direct the Planning Board to review the proposed project.

Ayes: All	Noes: None	Motion Carried
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| 8. Town Justices re Attendance at NYS Association of Towns training conference | Motion by Supervisor Meegan, seconded by Councilman Hanley, to authorize Town Justice Shannon Filbert and Court Clerks Tammie Maurino and Linda Stefaniak to attend the 2016 Association of Towns Training and Conference in New York City, February 14 – 17, 2016 at a cost not to exceed \$1,200 per person. |
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Ayes: All	Noes: None	Motion Carried
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| 9. Councilman Hart re Resignation of Julie Korczynski as Library Board Trustee | Motion by Supervisor Meegan, seconded by Councilman Hart, to accept the resignation of Julie Korczynski and terminate her as Library Board Trustee effective January 25, 2016. |
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Ayes: All	Noes: None	Motion Carried
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| 10. Councilman Hart re Appointment of Patricia Wass as Library Board Trustee | Motion by Supervisor Meegan, seconded by Councilman Hart, to appoint Patricia Wass as Library Board Trustee to fill the unexpired term of Julie Korczynski, effective January 25, 2016 through December 31, 2018, noting Mrs. Wass has volunteered at our town library for over 34 years and has recently retired after a long career as an elementary school teacher for the West Seneca Central School District. |
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Ayes: All	Noes: None	Motion Carried
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Emily Moser administered the oath of office to Patricia Wass.

**2-C COMMUNICATIONS**

11. Supervisor Meegan re Appointment of Jon Minear as Town Prosecutor, etc.

Motion by Supervisor Meegan, seconded by Councilman Hanley, to appoint Jon Minear as Town Prosecutor at an annual salary of \$7500 effective January 26, 2016 and Americans with Disabilities Officer and Harassment Compliance Officer at an annual stipend of \$1,000 effective January 26, 2016 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All                      Noes: None                      Motion Carried

12. Supervisor Meegan re Appointment of John Fenz as Town Prosecutor

Motion by Supervisor Meegan, seconded by Councilman Hanley, to appoint John Fenz as Town Prosecutor to serve without remuneration effective January 26, 2016 and authorize the Supervisor to complete and sign the necessary forms for Erie County Personnel.

Ayes: All                      Noes: None                      Motion Carried

13. Highway Supt. re Addition of overtime pay line for Bldgs. & Grounds Department

Motion by Supervisor Meegan, seconded by Councilman Hart, to approve creation of an overtime pay line #001.7110.0116.0000.0000 for the Buildings & Grounds Department in the amount of \$125,000 (funds deducted from Highway overtime pay line #002.5142.0144.0000.0000); and further, authorize all overtime for Highway F/T, Mechanic WCC1, and Mechanics F/T to be charged to existing pay line #002.5142.0144.0000.0000 (previously known as "SNOW" pay line), noting all other pay lines will remain the same for regular hours.

On the question, Highway Sup't. Matthew English explained that historically overtime pay for Buildings & Grounds employees came out of the Highway budget. Fees have been established for organizations holding events that require Buildings & Grounds employees and it was recommended by the Finance Department that an overtime line item for Buildings & Grounds be established. Fees charged will be put in this new line and there is no change to the budget.

Ayes: All    Noes: None    Motion Carried

**2-D REPORTS**

- Jacqueline A Felser, Town Clerk's report for year end 2015 and Receiver of Taxes' report for year end 2015 received and filed.



**2-E APPROVAL OF WARRANT**

Motion by Supervisor Meegan, seconded by Councilman Hart, to approve vouchers submitted for audit, chargeable to the respective funds as follows: General Fund - \$150,881.57; Highway Fund - \$108,249.26; Special Districts - \$19,220.60; Capital Fund - \$396,055.33 (voucher #'s 92305 – 92526); Trust Fund - \$45,877.17 (voucher #'s 92560 -92576)

Ayes: All

Noes: None

Motion Carried

**ISSUES OF THE PUBLIC**

**SIGN MAINTENANCE**

Beverly Leising commented on the public sign at Union Road and Main Street and asked that messages be kept up-to-date and that purple lettering not be used as it is difficult to read.

**STREETLIGHT ON HARWOOD ROAD**

Beverly Leising commented that the new streetlight installed on Harwood Road is out and Highway Sup't. Matthew English responded he will look into this.

**CASHIER POSITION**

Karen Lucachik questioned the creation of a cashier position. Supervisor Meegan explained that due to the restructuring of the Town Clerk's office, the Cashier title was more appropriate. The salary is also lower than the salary of the previous employee that held the Senior Clerk Typist position. This practice of cleaning up titles to match job duties was also done in the Court Clerks' office.

**PROPERTY MAINTENANCE ISSUE ON ORCHARD PARK ROAD**

Karen Lucachik commented on property maintenance issues next to Country Peddlers, including various vehicles, a piece of construction equipment and a boat. Mrs. Lucachik questioned if this property is in compliance with Town Codes. Code Enforcement Officer John Gullo responded that the property use meets the Zoning Ordinance for C-2(S). His office has addressed certain zoning violations with the property owner and they are currently in court.

**TAX FREEZE REBATE CHECKS**

Karen Lucachik referred to the tax freeze rebate checks and commented on the qualifications, including shared services which the town has done in several departments. Mrs. Lucachik further commented on the benefits and retirement that NYS employees receive and questioned if concessions have been made with healthcare and employee labor contracts.

**ISSUES OF THE PUBLIC**

**TAX FREEZE REBATE CHECKS** (continued)

Supervisor Meegan responded that healthcare savings was achieved in 2012 when the town joined a consortium with other municipalities to reduce the cost of insurance. Employees' options for insurance were also reduced to two. These things were done long before Governor Cuomo's directive and West Seneca is not getting credit for their actions. Supervisor Meegan further noted the tax cap this year was only .73 percent, not 2 percent.

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

**DISASTER PREPAREDNESS COURSE**

Mitch Martin of Senator Gallivan's office announced that the Senator has partnered with the Red Cross and West Seneca CERT to offer a Disaster Preparedness course to be held February 4<sup>th</sup> from 5:30pm to 7:30pm at the West Seneca Senior Center. Interested parties must register and almost 200 people have already registered.

Councilman Hart thanked Senator Gallivan for \$400,000 in funding toward the new community center/library expansion.

**HEAP OUTREACH AT W.S. COALITION RESOURCE CENTER**

Supervisor Meegan announced that Legislator Joseph Lorigo is holding an outreach for HEAP on February 3<sup>rd</sup>, 9 am to 4 pm at the West Seneca Coalition Resource Center located at New Hope Church, 2846 Seneca Street.

**RECREATION UPDATES**

Youth Service Coordinator Lauren Masset announced the town is currently hiring rink guards and applications can be found online or picked up in the Recreation Department office. Registration for Summer Day Camp for town residents begins Monday, February 1, 2016.

**IRS SCAM**

Chief Denz advised the IRS does not contact anyone via the Internet or by phone. Several scams are ongoing and he cautioned to beware of parties requesting personal information.

**ENGINEERING DEPARTMENT UPDATES**

Town Engineer Steven Tanner announced the Engineering Department will be putting out to bid the watermain replacement project on Boncroft Drive in anticipation of Community Development Block Grant (CDBG) funding for next year that will provide funding to repave the street. They also anticipate doing work on Angle Road and East & West Road, noting Angle Road is on the Highway Department's list for repaving. Request for a bid date for Theresa Court and Rosewood Drive is also forthcoming in February.

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

**HIGHWAY DEPARTMENT REVIEW**

Councilman Hanley stated he recently reviewed the vehicle log book with Highway Supt. Matthew English and everything was in order. Overtime, a sewer issue and the salt situation were also reviewed.

**SEWER PROJECT**

Councilman Hanley referred to a newspaper article from 1969 where the town was warned to fix their sewers and the cost of the study at that time was \$225,000. The sewers are finally being addressed and the cost of the project is now \$70 million. Town Engineer Steven Tanner commented that the town has been applying for grants and low interest loans for the sewer project. He was informed that the town is eligible for a 0% interest long term loan for a good portion of the \$30 million that was bonded. The town also received a \$100,000 grant to complete the Phase 5 study.

**COMPREHENSIVE PLAN UPDATE**

Councilman Hart stated there is a final draft of the Comprehensive Plan and the next step is completing the SEQR. The public portion of the process will follow and the goal is for adoption in early spring.

**EXECUTIVE SESSION**

Motion by Supervisor Meegan, seconded by Councilman Hart, to recess to executive session at 8:05 P.M. to discuss two contractual matters and two personnel issues.

Ayes: All

Noes: None

Motion Carried

The board members returned from executive session at 9:35 P.M.

**ADJOURNMENT**

Motion by Supervisor Meegan, seconded by Councilman Hart, to adjourn the meeting at 9:35 P.M.

Ayes: All

Noes: None

Motion Carried

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**JACQUELINE A FELSER, TOWN CLERK**

RESOLUTION AND ORDER AFTER PUBLIC HEARING HELD ON  
JANUARY 25, 2016, FOR THE INCREASE AND IMPROVEMENT OF  
FACILITIES OF ELECTRIC LIGHTING DISTRICTS 1-35, 38-42 AND  
55, PURSUANT TO SECTION 202-b OF THE TOWN LAW

WHEREAS, the Town Board has undertaken proceedings pursuant to Section 202-b of the Town Law for the joint increase and improvement of certain street lighting facilities ("Facilities") of Electric Lighting Districts 1-35, 38-42 and 55 (herein called the "Districts") in the Town of West Seneca (herein called the "Town"), in the County of Erie, New York, in preparation for the purchase of the Facilities from New York State Electric & Gas Corporation ("NYSEG") and conversion of the Facilities to LED lighting for the benefit of street lighting system users in the Districts and elsewhere in the Town; and

WHEREAS, the Town and NYSEG have entered into an Agreement for Purchase and Sale of Street Lighting Facilities dated as of November 13, 2014 pursuant to the terms of which all right, title and interest to and in the Facilities shall vest in the Town and the Town shall thereafter be solely responsible and liable for the operation, maintenance and condition of the Facilities; and

WHEREAS, the Town and John W. Danforth Company ("ESCO") have executed an Energy Performance Contract between the Town and ESCO dated November 15, 2014, pursuant to the authorizing resolution adopted by the Town Board on May 21, 2012, and an amendment to the Phase II portion of such Energy Performance Contract pursuant to the authorizing resolution adopted by the Town Board on January 11, 2016 (such contract as amended being hereinafter referred to as the "EPC") pursuant to the terms of which ESCO will (1) facilitate the Town's purchase of the Facilities from NYSEG, (2) install and implement Facility Improvement Measures for the Facilities, the Town's Ice Rink Scoreboard and the Town Library ("FIMs") in order to provide energy cost savings and operational cost savings

and (3) guarantee the level of such savings calculated in conformance with the requirements of the EPC; and

WHEREAS, the estimated cost of the joint increase and improvement of the portion of the Facilities benefiting the Districts is \$650,000 plus the reasonable cost of financing, accrued taxes, if any, associated administrative fees and expenses, which is proposed to be financed, together with the other FIMs, through a lease/purchase agreement in accordance with the Town Board's May 21, 2012 authorizing resolution; and

WHEREAS, such joint increase and improvement of the Facilities and the other FIMs are more particularly described in the EPC filed with the Town Clerk of the Town and the Town Board has adopted a Resolution describing in general terms the proposed increase and improvement of facilities of the Districts, specifying the estimated cost thereof, and stating that the Town Board would meet to hear all persons interested in said increase and improvement of facilities on January 25, 2016, at 7:00 o'clock P.M. (Prevailing Time) at the Town Hall, in said Town; and

WHEREAS, a Notice of such public hearing was duly published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on the 25th day of January, 2016, at 7:00 o'clock P.M. (Prevailing Time) at the Town Hall, 1250 Union Road, West Seneca, New York, and discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said increase and improvement of the facilities; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the increase and improvement of the facilities of the Districts may have on the environment and the Districts has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), constituting Article 8 of the Environmental Conservation Law and the applicable documentation thereof has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board has reviewed a Short Environmental Assessment Form prepared and signed by the Town Attorney and by resolution duly adopted on January 11, 2016 has determined that the project is an unlisted action and will not have a significant impact on the environment;

NOW, THEREFORE, on the basis of the information given at such hearing, it is hereby

DETERMINED, that it is in the public interest to increase and improve the facilities of the Districts, as hereinabove described and referred to, at the estimated maximum cost of \$650,000; and it is hereby

ORDERED, that the facilities of the Districts shall be so increased and improved in accordance with the terms of the EPC; and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of facilities, together with the other FIMs, shall be financed through an Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp (or one of its affiliates, and the costs of said increase and improvement of facilities, including payment of principal of

and interest on said bonds, shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the Districts in the same manner and at the same time as other Town charges; and it is hereby

FURTHER ORDERED, that the Town Clerk record a certified copy of this Resolution and Order After Public Hearing in the office of the Clerk of Erie County within ten (10) days after adoption hereof.

DATED: JANUARY 25, 2016

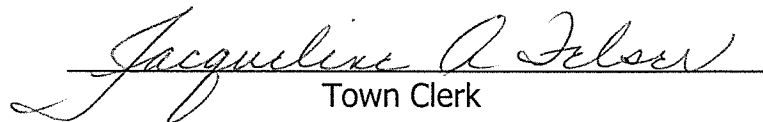
TOWN BOARD OF THE TOWN OF  
WEST SENECA

CERTIFICATE

I, Jacqueline A. Felser, Town Clerk of the Town of West Seneca, in the County of Erie, New York, DO HEREBY CERTIFY that I have compared the preceding Resolution and Order After Public Hearing with the original thereof filed in my office on the 25th day of January, 2016, and the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 26<sup>th</sup> day of January, 2016.

(SEAL)

  
Town Clerk



A RESOLUTION OF THE TOWN BOARD OF TOWN OF WEST SENECA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE/PURCHASE AGREEMENT WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT AND IN ACCORDANCE WITH THE ENERGY PERFORMANCE CONTRACT BETWEEN THE TOWN AND JOHN W. DANFORTH COMPANY DATED NOVEMBER 15, 2014; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

Whereas, the Town of West Seneca (the "*Lessee*"), a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of New York, is authorized by the laws of the State of New York to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

Whereas, in accordance with the provisions of Article 9 of the New York Energy Law the Town and John W. Danforth Company ("*ESCO*") have executed an Energy Performance Contract between the Town and ESCO dated November 15, 2014, pursuant to the authorizing resolution adopted by the Town Board on May 21, 2012, and an amendment to the Phase II portion of such Energy Performance Contract pursuant to the authorizing resolution adopted by the Town Board on January 11, 2016 (such contract as amended being hereinafter referred to as the "*EPC*") pursuant to the terms of which ESCO will (1) facilitate the Town's purchase of certain street lighting facilities from New York State Electric & Gas Corporation, and (2) install and implement Facility Improvement Measures for such facilities, the Town's Ice Rink Scoreboard and the Town Library (collectively, the "*Equipment*") in order to provide energy cost savings and operational cost savings; and

Whereas, the Lessee desires to purchase, acquire and lease the Equipment with a cost not to exceed \$5,275,003.00, plus the reasonable cost of issuance, constituting personal property necessary for the Lessee to perform essential governmental functions; and

Whereas, in order to acquire such equipment, the Lessee proposes to enter into that certain Equipment Lease/Purchase Agreement (the "*Agreement*") with Banc of America Public Capital Corp (or one of its affiliates)(the "*Lessor*"), the form of which has been presented to the governing body of the Lessee at this meeting; and

Whereas, the governing body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and the documentation relate to the financing of the Equipment for the purchase, acquisition and leasing of the equipment to be therein described on the terms and conditions therein provided; and

Whereas, the Town Board, as lead agency, has given due consideration to the impact that the acquisition of the Equipment may have on the environment and has complied in every respect with all applicable federal, state and local laws and regulations regarding

environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), constituting Article 8 of the Environmental Conservation Law and the applicable documentation thereof has been filed in the office of the Town Clerk;

Now, Therefore, Be It And It Is Hereby Resolved by the governing body of Lessee as follows:

*Section 1. Approval of Documents.* The form, terms and provisions of the Agreement are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved upon advice of counsel by the Supervisor of the Lessee executing the same, the execution of such documents being conclusive evidence of such approval; and the Supervisor of the Lessee is hereby authorized and directed to execute, and the Town Clerk of the Lessee is hereby authorized and directed to attest and countersign, the Agreement and any related Exhibits attached thereto and to deliver the Agreement (including such Exhibits) to the respective parties thereto, and the Town Clerk of the Lessee is hereby authorized to affix the seal of the Lessee to such documents.

*Section 2. Other Actions Authorized.* The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Acceptance Certificates and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement.

*Section 3. No General Liability.* Nothing contained in this Resolution, the Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Agreement are special limited obligations of the Lessee as provided in the Agreement.

*Section 4. Appointment of Authorized Lessee Representatives.* The Supervisor and Town Attorney of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of the Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement.

*Section 5. Severability.* If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

*Section 6. Repealer.* All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

*Section 7. Effective Date.* This Resolution shall be effective immediately upon its approval and adoption.

*Section 8.* The law firm of Harris Beach, PLLC will serve as Bond Counsel, Capital Markets Advisors, LLC, will serve in the capacity as independent registered Financial Advisor and Real Lease, Inc. is serving in the capacity of lease advisor and project financial development administrator.

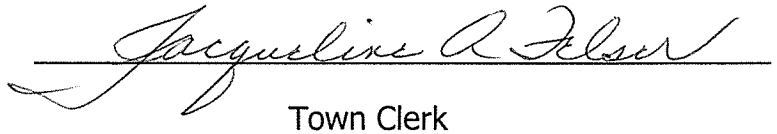
Section 9. It is hereby determined that the requirements of SEQRA have been met.

CERTIFICATE

I, Jacqueline A. Felser, Town Clerk of the Town of West Seneca, in the County of Erie, New York, DO HEREBY CERTIFY that I have compared the preceding Resolution with the original thereof filed in my office on the 25th day of January, 2016, and the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 26<sup>th</sup> day of January, 2016.

(SEAL)

  
Town Clerk

**LOCAL LAW #2016-01**

Modification to Chapter 54 – Brush, Grass, Weeds and Debris

§54-1 Maintenance required

All lots, plots or property within the Town of West Seneca, whether improved or vacant, shall be maintained as often as necessary to prevent the overgrowth of brush, grass and weeds in violation of the provisions of this chapter, including the accumulation of debris.

§54-2 Definitions:

Debris – refuse, trash, scrap, or things that are no longer useful or wanted; accumulation that is left to be discarded. At times the Code Enforcement office will use their discretion on these items to be cleaned.

§54-3 Responsibilities of owner

F. All parcels of any size shall be free of debris.

§54-6 Compliance required

Any person upon whom notice has been served to cut, trim or remove such brush and debris that fails to comply within 10 days after service shall be deemed to have neglected or failed to comply with the provisions of any such notice and shall be deemed to have violated this chapter.

§54-7

In the event of failure, neglect or refusal of any owner duly notified to cut, destroy or remove such excessive growth of grass, weeds, brush, plant growth or debris from his or her property within the applicable time period specified in the notice, the Senior Code Enforcement Officer or his designee shall have the power to or contract to cut, trim or remove such weeds, grass, brush or plant growth or accumulation of dead weeds, grass, brush, plant growth or debris on any such parcel. The cost or expense of such work ordered by the Senior Code Enforcement Officer and/or his designee shall be an annual fee of \$200 for administrative costs incurred under this chapter. This fee will be ordered at the end of the fall of each year. The expense thereof shall become a lien upon the real property involved and be added to and become a part of the taxes next so assessed by including such expense in the next annual tax levy against the property and shall bear interest at the same rate as taxes and shall be collected in the same manner as general town taxes.

**LOCAL LAW #2016-02**

Modification to Chapter 75 – Fire Prevention

§75-6.5 (F)

When emergency lighting is required to be located in structures, the town does not permit the combination of exit/emergency lighting. The intent is to illuminate the exit and exit ways. With automatic generator installations, emergency lighting is not required.

**LOCAL LAW #2016-03**

Modification to Chapter 90 – Plumbing

§90-14(B)

The Board of Plumbing Examiners shall hold one examination a year during February for which the entrance fee shall be set by the Town Board pursuant to adoption of an annual fee schedule.

**LOCAL LAW #2016-04**

Modification to Chapter 66 – Electrical Licensing

§66-4(c)

The annual fee for a license shall be set by the Town Board pursuant to adoption of an annual fee schedule.