

The Seneca Falls Town Board held a Public Hearing and regular monthly Meeting on Wednesday, November 7, 2018 in the Town Hall Meeting Room, 130 Ovid Street.

Present were Supervisor Gregory Lazzaro; Councilmen Louis Ferrara, David Delelys, Douglas Avery and Vittorio Porretta. Also present were David Foster, Town Attorney; Dean Zettlemyer, Zoning Officer; Mary Jones, Community Center Account Clerk; James Peterson, Highway Superintendent; Stuart Peenstra, Police Chief; Joseph Tullo, Water/Sewer Superintendent; Marshal Foster, IT Administrator; John Condino, Town Engineer and a Member of the local media.

Public Hearing – 2019 Preliminary Budget: Supervisor Lazzaro opened the Public Hearing relative to the 2019 Preliminary Budget at 5:15 P.M., and asked if anyone would like to comment regarding the Preliminary Budget.

James Sandlas, Greenbelt Circle, stated the Town has spent \$30,000 more this year on a full time Attorney; let's get back to Attorney on contract. He is also concerned about the cost of having a full time IT Director rather than contracting that service out. The Town spent \$230,000 on B&L Engineering from January to August 2018; there must be a better way – hire an Engineer. Our Town tax rate is projected at \$10.00 per \$1,000, one-half the rate of Waterloo and Geneva and right in the middle of local comparative rates. Mr. Sandlas said the plan we should be employing is using Landfill money to shore up our infrastructure over the next seven years, leaving our tax rates where they are now, keeping our other expenses in line and improving our Water Department efficiency so that in seven years the Department can stand on its own water rates independently.

Mr. Sandlas mentioned that local businesses are already having difficulty bringing new employees in because of the Landfill. He said 2025 is fair; the Town can plan and the Landfill can plan, and the Citizens can see eventual capping and closing of the Landfill. Mr. Lazzaro interrupted Mr. Sandlas and said he is talking about the Agreement and not the Budget; he asked Mr. Sandlas to be seated.

Brad Jones, Courtney Drive, stated Bruce Bonafiglia, President of Bonadent and David Malinas, President of ITT Goulds Pumps have given Mr. Lazzaro and Mr. Ferrara a heads up in their recent correspondence about the Landfill, making it difficult for them to recruit workers. Mr. Lazzaro requested that Mr. Jones stay on the topic of the Budget. Mr. Jones stated this Budget is top heavy in three areas – engineering services, legal fees and too many infrastructure projects all in one year. He recommended that B&L be removed as Town Engineers; it's time to have other firms quote any pending infrastructure project. Mr. Jones said just in this past year, the Town Attorney is responsible for outsourcing over \$250,000 of taxpayers' funds to represent us. Easy fix – just remove these two positions from the proposed Budget. Mr. Jones stated too many infrastructure projects are part of the proposed Budget. He suggested taking one-third of the funds appropriated for these infrastructure projects and putting it in reserves for that rainy day when we may need the money; take the other third and give it back to the taxpayer, and use the remaining third for infrastructure projects.

Mr. Jones said the Town Supervisor and Town Attorney failed us immensely – the news of a \$4 million reduction in a tax assessment for a business that went out of business ten years ago. He mentioned that no one here and some of the Board Members were privy to that information.

Suzanne Lee, Peterman Road, stated she has only lived here 2 ½ years and has attend meetings since she moved to Seneca Falls. Her concern with the Budget is that the wealthy people in town and the wealthy people who own businesses don't seem to care if the taxes go up. The older folks that are on pensions and/or Social Security will not be able to afford to stay in Seneca Falls much longer. Also, younger people will not be able to buy homes in Seneca Falls. Ms. Lee said there are some areas in the Budget that need to be cut; however, most of the areas that we have staff for are necessary. She would much rather lose no services and enjoy the money that the Landfill provides to the Town. The Budget is involved in big business here. The people who own the big businesses, such as BonaDent, that building and business was built long after the Landfill came to town, so why complain about it now. Waterloo Container was placed there long after the Landfill was there. Ms. Lee said right now, people cannot afford to live in Seneca Falls and keep our services that we need.

Tim Geraghty, Pleasant Street, stated at one of the Budget Workshops, a Board Member suggested discussing whether the Town Attorney and the IT position should be full time or part time which I agree with. He said in July 2017 at a Special Meeting, David Foster was retained as Attorney for the Town at an annual fee of \$48,000. During a Special Meeting in October 2017, a motion was passed to hire David Foster as Town Attorney. When Dave Shaw asked what his salary would be, Mr. Foster replied \$58,500. Mr. Geraghty said that's a little bit of an increase in a short amount of time.

Mr. Geraghty said in December 2017, Marshall Foster was appointed to the newly created position of Network Administrator full time; the position had an annual salary of \$41,450 – with benefits added in, it adds up to a little more. During the October 2018 Meeting, the Network Administrator's salary was increased to \$53,900. Mr. Geraghty stated along with that, there was a bid put out to have another contractor come in and do the server upgrades for the Town. His comment is – what does a Network Administrator do to justify a full time position at the salary paid.

Allison Stokes, Rochester (home is on W. Bayard Street), stated her concern is with the \$200,000 line item for legal matters in the 2019 Budget. She mentioned three legal issues going now that the Board foresees needing significant funding:

1. The Article 78 Lawsuit that Seneca Meadows has brought against the Town. She said we have no choice but to defend in Court the Local Law mandating closure of the Landfill by 2025.
2. Appeal of the Ludovico Sculpture Trail. The Town Board decided to take an easement on the Trail by Eminent Domain in order to run a sewer line down the Trail for waste from Seneca Meadows, del Lago, the Outlet Mall, the Junius rest stop, etc. Ms. Stokes said the Law Firm retained by the Board has already received more than \$115,000 of Town funds from January to August 2018.
3. On October 31<sup>st</sup>, the Court ordered that the Town pay for an Attorney to represent the Heritage Preservation Commission that is endeavoring to keep the historic Huntington Building from being demolished. The Town has a full time Town Attorney who is earning almost \$60,000 plus benefits. She asked why can't he represent the HPC. The Judge explained that although there may be no actual conflict of interest, just the appearance of a conflict of interest means that the Town must cover the cost of its own Attorney.

Ms. Stokes said why does Seneca Falls need a full time Town Attorney? This is an extravagance we cannot afford – it's wasteful and not needed. She added Citizens can hope that the Board agrees.

Michael Ferrara, Seneca Lane, stated hopefully, the Town Board continues to work in a non-partisan way to solve the 2019 budgetary issues. We need to separate the politics and special interests, and all five of the Board needs to continue to work together to do what's best for the Community of Seneca Falls. His hope is that they will continue all the diligent work that they have been doing so far to get us to that point, and separate the political views and all the other things and stay focused as to what is best for all the people in Seneca Falls.

Mr. Ferrara mentioned the two topics brought up tonight – Town Attorney and Engineer. Has everyone on the Board done their due diligence as the cost of having a part-time Attorney and the cost of bringing in an outside Attorney for day-to-day operations of the Town Board. Also, the same applies to Town Engineer. Mr. Ferrara suggested the Board do a cost analysis.

Jean Gilroy, Gravel Road, Seneca Falls stated she has attended every Budget Meeting and no one was allowed to ask a question. She is here tonight, and no one is allowed to ask questions. She doesn't know how you expect the Town of Seneca Falls to stand behind you when they can't even ask a question.

Valerie Sandlas, Green Belt Circle, thanked the Board for their hard work in creating what she sees to be a pretty fair 2019 Budget. She has a few suggestions that seem to be a common theme – eliminate the full time Town Attorney position and eliminate the full time IT position which are new this year. She said we contracted out the Attorney and IT which meant we didn't need to pay for benefit packages, and we also didn't need to implement money into the pension system. Mrs. Sandlas thinks we need to go back to what we have done before – in her opinion, it's an easy way to eliminate unnecessary expenditures. She said the same is true of our full time IT position – why should we pay a higher salary with benefits and pension access when we never did before. Mrs. Sandlas referred to the Engineering spending and said from January to August 2018, Barton & Loguidice have already spent \$200,000; at that rate, they are going to work themselves to \$300,000 which is what we paid them last year – that's too much money.

Mrs. Sandlas stated with the current Host Agreement, between 2019 and 2025, we should probably have somewhere between \$21-25 million by the time 2025 rolls around. She thinks we should continue to use this, putting it towards infrastructure or whatever we may need in the Town other than necessarily always, as we have been habitually, dedicating it to taxes – it's giving us an artificially low tax rate. Mrs. Sandlas stated our current tax rate seems reasonable to her; if you were going to move elsewhere in the County, it would be very difficult to find lower taxes.

Stan Praszkowicz, Bradley Avenue, stated the 2019 Budget necessarily impacts the budgets of our Citizens. The median household income of Seneca Falls is \$44,006; the median household income for all the State of New York is \$60,741 – Seneca Falls is 28% lower than all of New York. The National average is \$55,322 – Seneca Falls is 20% lower than that. (This is what he read in the newspaper.) Mr. Praszkowicz said while the drop of one-half of 1% property tax is a step in the right direction in the proposed 2019 Budget, it does not give much relief to those who are struggling to sustain their properties. Town Government needs to lower property taxes more extensively than one-half of 1% to give relief to its Citizens who are earning very modest wages.

Mark Benjamin of Lodi stated he is here as an employee of the single largest taxpayer in Seneca Falls. He has been asked by several Seneca Falls resident taxpayers to appeal to the Board to lower their taxes. He thanked Members of the Board who continue to work hard for tax relief. He respectfully disagrees with the Board Members who, over the last several weeks, have taken the following four step action plan over the course of the Budget Workshops that has and will be to further tax increases:

1. Voted against lowering taxes and resetting the General Fund rate back to 2017 rates of \$6.09 per \$1,000.
2. Voted for giving yourselves pay raises.

3. Voted against \$100,000,000 in tax relief.

4. Voted to litigate against one of the largest job makers and the single largest taxpayer in your own Town. Mr. Benjamin said we cannot afford your four-step action plan to increase taxes and drive out jobs and businesses. He said please go back and resolve to come up with a Budget plan that provides tax relief in the amount of \$100,000,000. He added they have done everything they can to work with the Town to find common ground and provide tax relief for all Seneca Falls taxpayers.

Since there were no further comments, a motion was made to close the Public Hearing by Greg Lazzaro and seconded by Lou Ferrara. No questions. Motion carried 5 ayes, 0 nays.

Mr. Lazzaro called the regular monthly Meeting to order at 6:00 P.M. A roll call of Board Members was taken and all were present; the Pledge of Allegiance followed.

#### Open Bids:

Sanitation Service for Residential Properties within the Former Village Area: Mr. Lazzaro proceeded to open the following two sealed bids that were received:

D&L Disposal II, Newark, NY - \$10,550.00 per month. (\$126,600 year)

J.E. Gibson, Inc. d/b/a Cardinal Disposal – Year 1, 2 & 3 - \$141,365.76 a year; Year 4 - \$148,949.76 and Year 5 - \$156,533.76.

Mr. Lazzaro said this will be discussed under New Business.

#### Petitioners:

Brad Jones – Town Financials: Brad Jones stated he and many Town Residents attended all four Budget Workshops. The Supervisor has failed once again on preparing the cost conscious 2019 Budget. He said we have to read about Budget numbers in a paper; it's not presented to the taxpayers in the open. Mr. Jones referred to Mark Benjamin and his mentioning the highest paid taxpayer and said recently, Bruce Bonafiglia of BonaDent and the new President of Goulds ITT David Malinas have given the Board heads up saying "me, too", 800 employees – what is Mr. Lazzaro going to say if those two companies pick up and decide to leave. He added start looking at all businesses equally, not just the Landfill.

Mr. Jones addressed Mr. Ferrara, and said right now, there is no transparency with this elected Official. We have a \$13 million Budget that nobody knows anything about. He mentioned the Supervisor talking about economic development, and said not one line item in the four Budget Workshops discussed economic development. He thinks it's time to put an economic developer's position in the Budget.

Mr. Lazzaro stated he doesn't want to argue with a Petitioner, but we have a Local Development Corporation that the Town pays for a Director. He said people who come in view this Town as very business unfriendly. In years past, we have lost a number of possible businesses that would come in because of the hoops they have to go through. Mr. Lazzaro said with all the infrastructure repairs we have in the future, he doesn't know, except for borrowing money, where we are going to get the money for those repairs.

Mr. Lazzaro stated someone said no one has the ability to see those figures. The figures are in the Office and anyone can come in during the day and get those figures. Mrs. Warfel makes up the sheets before each Budget Meeting - they are readily available to the public without foiling them. He told Mr. Jones to start coming in and getting these figures before the Meeting, and he is more than happy to speak to him about them.

Robert Magill – Comparing Municipalities: Robert Magill stated someone should tell the President of Goulds Pumps that the grassy knoll on the west side of his building is an EPA toxic waste site. And somebody should also tell him that every Community in Central New York has a problem with recruiting and retaining quality employees. Mr. Magill said you cannot compare Seneca Falls with other communities and just show the glorious side of their accomplishments and then throw stones at the lack of accomplishments here. He added this Town has done very well – they have done everything to cooperate with the 318 Corridor, Petro, Quality Inn, Hampton Inn, the Casino, which the Town is providing sewer services for them. He said without that sewer service and the upgrades that are needed, that development would not be taking place.

Mr. Lazzaro said a Special Meeting will have to be scheduled relative to the IMA agreement he just received from the County. The Board scheduled the Special Meeting for 3:30 P.M. on Wednesday, November 14<sup>th</sup>.

#### Approval of Minutes:

A motion was made to approve the minutes of the Public Hearing and Meeting of October 2, 2018 by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

A motion was made to approve the minutes of the Budget Workshop of October 10, 2018 by Greg Lazzaro and

seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Reports:

Dog Control Officer: A motion was made to approve the Dog Control Officer's report by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Zoning Officer: A motion was made to approve Mr. Zettlemoyer's report by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

Commissioner of Parks & Recreation: A motion was made to accept Mr. Spina's report by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Highway Superintendent: A motion was made to accept Mr. Peterson's report by Greg Lazzaro and seconded by Lou Ferrara.

Mr. Peterson stated he met with representatives of the Women's March to be held in January, and they were concerned about the sidewalks not being shoveled and people walking in the streets last year. Mr. Lazzaro stated we have to put limits on ourselves as to what can be done in terms of a snowstorm the night before. If people continue to come into Town, we might have to close down some streets. Mr. Peterson mentioned that they have buses at the Plaza, and a lot of people walk in the street on 5 & 20 to get to the buses – it's a big concern. After further discussion, Mr. Peterson said they have a Meeting with Women's March on November 19<sup>th</sup> and they will discuss it then.

The above motion made by Greg Lazzaro and seconded by Lou Ferrara to accept Mr. Peterson's report was carried 5 ayes, 0 nays.

Assessor: A motion was made to accept Mrs. Holtz's report by Greg Lazzaro and seconded by Doug Avery.

Mrs. Holtz said she wanted to clarify the discussion that was had today; there were a couple of errors made in the paper regarding change in assessment. The total assessment went down from 2017 to 2018 by about \$2 million. The one little section on the Sylvania property was initially under the IDA control – they paid a PILOT payment through an old PILOT Agreement that was back from the late 80s. Mrs. Holtz stated the owner of the property came forward and actually wanted to be put on the tax roll. She added their assessment is just over \$900,000 starting with the 2018 roll, and they are paying taxes on the full \$900,000+. Mr. Jones thanked Mrs. Holtz for sharing that – that's a great example of transparency. Mr. Lazzaro remarked – that's why we have good department heads. He thanked Mrs. Holtz for doing that. Mr. DeLelys mentioned that the Board knew about the Sylvania property ahead of time. Brief discussion followed.

The above motion made by Greg Lazzaro and seconded by Doug Avery to accept Mrs. Holtz's report was carried 5 ayes, 0 nays.

Town Justices: A motion was made to approve Judge Lafler and Judge Laquidari's reports by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Water & Sewer: A motion was made to accept Mr. Tullo's report by Greg Lazzaro and seconded by Lou Ferrara. No questions. Motion carried 5 ayes, 0 nays.

Police Chief: A motion was made to approve Chief Peenstra's report by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

Barton & Loguidice: A motion was made to approve Barton & Loguidice's report by Greg Lazzaro and seconded by Lou Ferrara. No questions. Motion carried 5 ayes, 0 nays.

IT Network Administrator: A motion was made to accept Mr. Foster's report by Greg Lazzaro and seconded by Lou Ferrara.

Mr. Avery referred to Mr. Foster's report and #2 which is setting up a tax free account with Amazon for future purchases, and asked if that was in contradiction with the Credit Card Policy because it seems to him that it circumvents our Credit Card Policy. Attorney Foster said if you are an accepted vendor who does not have to pay tax, then they will set it up so that when you make the purchase, they don't bill you the tax first and then reimburse it - they simply don't charge it. Mr. Avery said that's fine from Amazon, but from our Auditors, there is no accounting of purchases until after the fact – that's not the spirit of the Credit Card Policy.

Mr. Lazzaro said department heads make purchases without asking if they are under a certain threshold. If Amazon is a tax free account, he will still need the credit card to make the purchases. Mr. DeLelys stated the

Policy is you need to get the credit card from the Town Clerk. He added as long as you are going to the Town Clerk to get the credit card – that’s fine. Mr. Lazzaro said that will be clarified in the next few days.

The above motion made by Greg Lazzaro and seconded by Lou Ferrara to accept Mr. Foster’s report was carried 5 ayes, 0 nays.

Other Committee Reports: None.

Communications:

A motion was made to receive and file Communications numbered 1 to 7 by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays. Communications numbered 1 to 7 are as follows:

1. 2017 Annual Report from Cayuga/Seneca Community Action Agency, Inc.
2. Minutes of the Zoning Board of Appeals Meeting of September 27, 2018.
3. Quarterly Report from Seneca County Chamber of Commerce.
4. Checks and deposits totaling \$16,402.51 representing Retirees Health Insurance payments; Judge Lafler’s September report; dumpster fees; tower rent; copies of Police reports and Community Center deposits.
5. Statement of Accounts, April 1, 2011 to September 30, 2018, from Wilmington Trust.
6. Reports and Resolutions relative to an Area Variance and Site Plan Review from Seneca County Planning Board.
7. Checks and deposits totaling \$24,151.63 representing exonerated bail; School Resource Officer reimbursement; Retiree Insurance payments; copies of Police reports; dumpster fees; BFD fuel reimbursement; Town Clerk’s September and October reports; refund prior year expense; Burial fee; sale of scrap; Judge Laquidari’s September report; Spectrum overpayment and Vince’s Park rental deposit.

Old Business:

Write-Off Uncollectable Receivables: No report.

Route 414 Sewer Line Transfer from IDA to Town: No report.

Installation of Fire Hydrant – Lake Road Spur: Mr. Tullo said the Board needs to have Barton & Loguidice draw up the plans and submit them to the Board. He explained they will be coming up Lake Road and going across the Town Playground property and ends before they hit Lake Road Spur. Brief discussion followed.

A motion was made authorizing Barton & Loguidice to prepare plans for the installation of a fire hydrant near Lake Road Spur by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Policy for Use of Space at Condominium: Mr. Avery stated this is on hold until it is determined if we need the large room for storage.

Mr. Ferrara asked if 60 State Street is going to be put back on the Realtors list. Mr. Lazzaro said it has to be advertised, but if anyone comes before the Board and says that they are interested, then there has to be a waiting period and we have to put it up for sale and wait for other people to bid on it. Mr. Avery asked what the status of 10 Fall is; Mr. Foster replied that Individual is going forward with the purchase. He is trying to accommodate them a little bit in terms of just the normal closing time that it would take for a building, now that they are going forward.

A motion was made to list for sale the excess property at 60 State Street by Lou Ferrara and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Resolution – Salary Adjustment of Deputy Highway Superintendent: Mr. Lazzaro stated we are in salary negotiations as the Highway has asked to unionize. He added they will be meeting tomorrow at which they will discuss this issue.

Renew SMI Annual Permit: A motion was made to renew Seneca Meadows annual Permit by Greg Lazzaro and seconded by Lou Ferrara.

Mr. Avery said he is opposed and will remain opposed as long as there is a lawsuit and they hold off on the money. He added if they are bringing in garbage, they should bring in the money – we don’t need the lawsuit. Mr. Lazzaro said you understand that they don’t have to have a Host Agreement; this can be perceived as a violation of the Host Agreement.

The above motion made by Greg Lazzaro and seconded by Lou Ferrara to renew Seneca Meadows annual Permit did not carry as the vote was 2 ayes, 3 nays; Councilmen DeLelys, Avery and Porretta with the

dissenting votes.

Mr. Lazzaro said now that the permit for SMI was denied, how do we move forward. That's a legal question that we have to ask because we are denying them a permit after the DEC approved their permit to run their operations. After further discussion, Mr. Lazzaro said it has been denied, but if one of those who voted no wants to bring it up to reconsider they can. He believes the Town is being belligerent to a business in the Town.

RFPs – Upgrade of Existing Server System: A motion was made to table action on the RFPs for the upgrade of the existing server system by Dave DeLelys and seconded by Greg Lazzaro.

Mr. DeLelys stated after reviewing the RFPs, they were deciding on one, but he would like to get a list of some of the other towns they have done and their performance.

The above motion made by Dave DeLelys and seconded by Greg Lazzaro to table action on the RFPs for the upgrade of the existing server system was carried 5 ayes, 0 nays.

It's a Wonderful Life Request for Signage: Mr. Avery stated they don't have information yet as they have to meet.

New Business:

Approval of Special Events: A motion was made by Greg Lazzaro and seconded by Dave DeLelys to adopt the following Resolution:

Be it resolved that the Town Board approves the event applications submitted by the It's a Wonderful Life Committee and It's a Wonderful Run Committee for their events scheduled for December 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup>. It is understood that the applications have been reviewed and are in order. Both applications shall be approved pending proper insurance submittal.

No questions. Motion carried 5 ayes, 0 nays.

2019 Preliminary Budget: A motion was made to table the adoption of the 2019 Preliminary Budget, and either approve or disapprove it at the Board's Special Meeting on November 14th, by Greg Lazzaro and seconded by Lou Ferrara. No questions. Motion carried 3 ayes, 2 nays; Councilmen Avery and DeLelys with the dissenting votes.

Mr. Lazzaro told the Board to think about what was said tonight, and we will move on.

Resolution – Omnibus Matrix Adjustment: A motion was made by Doug Avery and seconded by Dave DeLelys to adopt the following Resolution:

WHEREAS, the Town Board has considered the adjustments made to the salary Matrix this year; and  
WHEREAS, the adjustment to the Matrix took far longer than anticipated and a disparity was created between the adjustments received by the positions adjusted early in the year and those adjusted in October.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Seneca Falls Town Board does hereby pass an Omnibus Matrix Adjustment for all employees affected by the Matrix change to the date of the first Matrix adjustments in April of 2018.

Budget lines affected will be increased using cash balances on hand and the adjustments will be paid in a special payroll during the month of November.

Mr. Avery stated it took them so long to get the process finished that some people got their adjustments six months ahead of other people. In an effort to simply be fair, the fact that everybody should have happened at the same time should be obvious.

The above motion made by Doug Avery and seconded by Dave DeLelys to adopt the above Omnibus Matrix Adjustment Resolution was carried 4 ayes, 1 nay; Supervisor Lazzaro with the dissenting vote.

Bids – Sanitation Service: A motion was made to table action on the bids for Sanitation Service for the former Village area by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

Resolution – Budget Modification: A motion was made by Greg Lazzaro and seconded by Dave DeLelys to adopt the following Resolution:

WHEREAS, the Town has received repayment from Colony Insurance for the destruction of a light pole; and  
WHEREAS, the light pole has been replaced and paid for out of A5182.403.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Seneca Falls does hereby authorize a budget modification to increase A2680 Insurance Revenue and A5182.403 Lighting Miscellaneous to reflect the increase in Expenditure, \$2,585.00.

No questions. Motion carried 5 ayes, 0 nays.

Reappoint BAR Member Joseph Peone: A motion was made to reappoint Joseph Peone as a Member of the Board of Assessment Review, said term expiring September 30, 2023, by Greg Lazzaro and seconded by Dave DeLelys.

Mrs. Holtz stated this is a five year term. She didn't feel the need to spend additional money to advertise because in the past, it was difficult to fill other positions on the BAR. She spoke to Mr. Peone and he would like to stay on the BAR.

The above motion made by Greg Lazzaro and seconded by Dave DeLelys to reappoint Joseph Peone as a Member of the Board of Assessment Review was carried 4 ayes, 1 nay; Supervisor Lazzaro with the dissenting vote.

Mr. Lazzaro commented that when these appointments come up, he thinks it's fair and equitable to put ads in the paper and discuss this among Board Members.

W/S – Appoint W/S Treatment Plant Operator Trainee: A motion was made by Greg Lazzaro and seconded by Lou Ferrara to adopt the following Resolution:

WHEREAS, the Town Board authorized the creation of a Water/Wastewater Treatment Plant Operator trainee position and there is a need to fill that position due to the retirement of an employee.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Seneca Falls Town Board does hereby authorize the appointment of Edward Thurston to that position at a pay rate of \$21.72 an hour.

Mr. Porretta asked why this person is coming in as a WWTP Operator instead of a Laborer. Mr. Tullo replied he is going to be a Trainee starting at the Wastewater Treatment Plant; the sludge press is a part of being a Trainee – that's an Operator's job, not a Laborer. He added he is among the top three of the Civil Service list. Brief discussion followed as to the duties of the Trainee.

The above motion made by Greg Lazzaro and seconded by Lou Ferrara to adopt the above Resolution appointing Edward Thurston as Water/Wastewater Treatment Plant Operator trainee was carried 5 ayes, 0 nays.

W/S – Cancel Digging Contracts: A motion was made by Greg Lazzaro and seconded by Dave DeLelys to adopt the following Resolution:

WHEREAS, the Town Board authorized the appointment of Edward Thurston to W/S Treatment Plant Operator Trainee.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Seneca Falls Town Board does hereby authorize cancelling of the Water/Sewer Departments digging contracts with Thurston Services.

No questions. Motion carried 5 ayes, 0 nays.

Resolution – Contribution to It's a Wonderful Life Museum: A motion was made by Greg Lazzaro and seconded by Dave DeLelys to adopt the following Resolution:

WHEREAS, the Seneca Falls It's a Wonderful Life Museum and Archive plays an important role in the success of the annual It's a Wonderful Life Festival; and

WHEREAS, the status of the Seneca Falls It's a Wonderful Life Museum and Archive as a 501(c)(3) non-profit organization has been confirmed; and

WHEREAS, the Museum has relied on this donation in the past to facilitate the bringing of movie personalities to Seneca Falls for the Festival.

NOW, THEREFORE, BE IT RESOLVED, that the Seneca Falls It's a Wonderful Life Museum and Archive be given the sum of five thousand dollars (\$5,000) toward their expenses for the 2018 Festival.

Mr. Ferrara asked if this came under the lines of what the Auditors told the Board – private donations. Mr. Avery replied they know we have not included them in the 2019 Budget because of what the Auditors said. His point in bringing this forward is with just a short amount of time, they are relying on this money for this year. He added they know money is not going to be there next year unless we find out otherwise from the Auditors.

The above motion made by Greg Lazzaro and seconded by Dave DeLelys to adopt the above Resolution contributing to It's a Wonderful Life Museum and Archive was carried 5 ayes, 0 nays.

Resolution – Indemnification of Officers/Employees: A motion was made by Greg Lazzaro and seconded by Dave DeLelys to adopt the following Resolution:

WHEREAS, the Town of Seneca Falls is a political subdivision of the State of New York, acting pursuant to certain powers set forth in Town Law; and

WHEREAS, the Town of Seneca Falls Town Board is subject to current litigation claims arising from acts or omissions occurring during the performance of their duties; and

WHEREAS, past, present, and future officers and employees of the Town may be subject to claims arising from acts or omissions occurring during the performance of their duties; and

WHEREAS, the Town desires to defend and indemnify such persons against liability for acts or omissions

occurring during the performance of their duties so as to encourage employment and/or service as councilpersons or officers of the Town; and

WHEREAS, by encouraging persons to accept employment or to serve as councilpersons or officers, it is in the best interests of the health, safety, and welfare of the Town and its constituents to defend and indemnify its councilpersons, officers and employees against liability for which defense and indemnification may not otherwise be provided by New York Law.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 18, Defense and Indemnification of Officers and Employees of Public Entities of the Public Officers Law, the Town of Seneca Falls Town Board does hereby resolve as follows:

A. Definitions. For the purposes of this Resolution, the terms below shall be defined as follows:

1. Councilperson: Includes former, current or future councilpersons and officers of the Town who are sued for acts or omissions occurring during their terms as councilpersons and officers of the Town.
2. Employee: Includes former, current or future employees of the Town. The term "employee" specifically excludes any person or organization contracting to perform services or acting as an independent contractor.
3. Scope of Engagement: An act or omission of a councilperson, officer or employee of the Town is within the "scope of engagement" if it reasonably relates to the business or affairs of the Town, including participation on various boards or agencies reasonably related to the Town's services, and if the councilperson, officer or employee acted in good faith and in a manner that a reasonable person would have believed to be in, and not opposed to, the best interests of the Town. "Scope of engagement" shall include any claims or allegations against a councilperson, officer or employee that are directed at a councilperson, officer or employee personally, but are intended to improperly influence the councilperson, officer or employee's efforts on behalf of the Town, subject to the remaining provisions of this Resolution.

B. Applicability.

1. Subject to the terms of this Resolution, the town shall pay the costs of defense of, and settlements and judgments against, a councilperson, officer or employee of the Town, including reasonable attorney fees, where the action lies or could lie in tort or contract of other claims, including any such action brought pursuant to Federal Law in any court of this State. As a prerequisite to such payment, the councilperson, officer or employee must furnish the Town with an affidavit stating that the action against him or her is not purely personal, and that, to his or her reasonable belief, the act or omission upon which the claim is based reasonably relates to the business affairs of the Town and that the councilperson, officer or employee acted in good faith and in a manner that a reasonable person would have acted under the circumstances, and which was not opposed to the best interests of the Town. However, the Town shall not pay such judgment or settlement and shall seek reimbursement from the councilperson, officer or employee for the actual costs of his or her defense, including actual attorney fees, where it is determined by a court of competent jurisdiction:

(a) that the injuries or damages did not arise out of an act or omission of the councilperson, officer or employee occurring as a result of his or her scope of engagement with the Town, or (b) that the councilperson, officer or employee's act or omission was willful and wanton, in bad faith, or constituted a conflict of interest.

2. All claims to be paid as a result of the indemnification provided hereunder shall be paid by the Town or its insurer, except as set forth in paragraph D below.

C. Notice of Action or Potential Action. In order for the councilperson, officer or employee to be entitled to relief under the terms of this Resolution, notice must be given to the Town by the councilperson, officer or employee in writing within ten days after service of notice of the action.

D. No Indemnification. In no event will the Town indemnify or pay the defense costs if it is adjudged that the councilperson, officer or employee has acted primarily for personal benefit or on the basis of other improper benefit, whether or not the councilperson, officer or employee is acting in his or her official capacity. Such defense and indemnification shall not be available to a former councilperson officer or employee in the event that the tort or liability claim against him or her is asserted as a counterclaim or setoff in any suit brought by a councilperson, officer or employee against the Town.

E. Settlement. In order for a councilperson, officer or employee to avail himself or herself of the benefits of the Resolution, the Town, acting through the Town Board, shall approve in writing any settlement of claims and stipulated judgments against its councilpersons, officers or employees. The Town shall not be liable for any such compromise or settlement without its written consent.

F. Legal Counsel. Provided that the above provisions are satisfied, the Town shall obtain legal counsel to serve as counsel to the councilpersons, officers or employees unless the interests of the Town and the councilperson, officer, or employee may be adverse. In such event, the councilperson, officer or employee may select independent legal counsel, who shall first be approved by the Town. The councilperson, officer or employee shall cooperate in all respects with the Town and its legal counsel in his or her defense. If the councilperson, officer or employee does not cooperate with the Town, the Town may elect not to pay defense costs or indemnify the councilperson, officer or employee.

- G. Councilperson’s, Officer’s or Employee Costs. The Town shall not be responsible for costs or fees to its councilpersons, officers or employees associated with time spent in giving depositions, testifying or otherwise cooperating with defense of claims against them or the Town.
- H. Effect of Other Insurance, Bond, or Indemnification Plan. If the Town has insurance coverage for any act for which indemnification is provided by this Resolution, such coverage shall be primary. As to a claim a claim potentially subject to reimbursement under this Resolution, if the councilperson, officer or employee has any other valid insurance, bond, or indemnification plan available that covers defense costs or the loss or damage alleged against him or her, and the Town does not have adequate insurance coverage, such councilperson’s, officer’s or employee’s insurance, bond or other plan will be first applied to the payment of any defense costs, attorney’s fees or claim/judgment before resorting to a claim for indemnification hereunder. The obligation of the Town to indemnify and save harmless the councilperson, officer or employee shall, in all events, exist only to the extent permitted by this Resolution, the Town’s Rules and Regulations and New York Law.
- I. Subrogation Rights of Town. In the event of any payments pursuant to this Resolution, the Town or its assigns shall be subrogated to all of the councilperson’s, officer’s or employee’s rights of recovery therefore against any person or entity. The councilperson, officer or employee shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights, and the councilperson, officer or employee will take no action that would prejudice the rights of subrogation.
- J. Purpose. The purpose of this Resolution is to protect councilpersons, officers and employees of the Town against personal liability for their actions taken on behalf of the Town. It is the intent of the Town that this Resolution be liberally construed in favor of the protection of councilpersons, officers and employees. By the adoption of this Resolution, the Town does not waive its rights: (1) under Section 18 of the Public Officers Law; (2) to claim immunity as a defense to any action; or (3) to set forth any other claim, defense or counterclaim provided by law.
- K. Severability. If any provision of this Resolution is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of the remainder of the Resolution.
- L. Term. All indemnifications described in this Resolution shall be valid during the current calendar year and shall be considered automatically renewed on January 1 of each year thereafter unless repealed by resolution of the Town of Seneca Falls Town Board within 60 days prior to the renewal date, or unless expressly modified or revised by subsequent Board resolution(s).

Mr. Avery stated this Resolution comes from him, and is basically in light of the fact that we have these lawsuits out there – SMI, Ludovico Sculpture Trail and the HPC situation. He said we need protection as Individual Board Members so that if we are acting in good faith in the discharge of or duties as Town Board Members we are protected.

A motion was made to adopt the above Resolution to indemnify Councilpersons, Officers and Employees of the Town of actions taken as part of their official duties by Greg Lazzaro and seconded by Dave DeLelys. No questions. Motion carried 5 ayes, 0 nays.

Accept Bids – Engineering Services – Phase II Sidewalk Project: A motion was made to table action on the bids for Engineering Services for the Phase II Sidewalk Project by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

Water/Sewer Credits: None.  
Payment of Bills:

A motion was made by Greg Lazzaro and seconded by Doug Avery to approve and order paid the following bills:

- |   |   |
|---|---|
| General Fund - \$200,129.45 (Abstract #11)      | Recreation Fund - \$10,257.13 (Abstract #11)  |
| Miscellaneous Fund - \$29,562.99 (Abstract #11) | Vince’s Park Fund - \$3,053.14 (Abstract #11) |
| Highway Fund - \$88,749.82 (Abstract #11)       | Sewer Fund - \$159,049.80 (Abstract #11)      |
| Water Fund - \$142,544.80 (Abstract #11)        |   |

No questions. Motion carried 5 ayes, 0 nays.

Being there was no further business, a motion was made to adjourn the Meeting by Greg Lazzaro and seconded by Doug Avery. No questions. Motion carried 5 ayes, 0 nays.

Meeting adjourned at 7:10 P.M.

Respectfully submitted,

NICALETTA J. GREER  
Town Clerk

