

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 6th day of January 2016 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:

- | | |
|-------------------------|------------------------|
| Patrick J. Keem | Supervisor |
| Eugene Majchrzak | Councilman |
| Michael Sherry | Councilman |
| John C. Bailey | Town Attorney |
| Remy Orffeo | Town Clerk |
| Wayne Bieler | Town Engineer |
| Andrew Geist | Building Inspector |
| Frederick Piasecki, Jr. | Highway Superintendent |
| Mark Pacholec | Chief of Police |

Supervisor Keem read into the record the following: "If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics."

1) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on December 16, 2015, Executive Sessions: December 16, and 23, 2015 and be it further

RESOLVED, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

The resolution was unanimously adopted.

Old Business # 1 Award Bid for Philson Drive Reconstruction Project

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

WHEREAS, bids were opened for the Concrete Gutters for Philson Drive Road Reconstruction and Curley Drive and Windgate Road Concrete Repair Project on December 18, 2015.

WHEREAS, The Town of Orchard Park Engineering Department has reviewed the itemized prices of the four (4) contractors who submitted bids. E.J. Militello Concrete was the lowest responsible bidder with a base bid of \$80,169.00 that was below the engineer's estimate of \$84,899.36 for the project.

WHEREAS, E.J. Militello Concrete has successfully completed concrete gutter and drain inlet flare projects for the Town of Orchard Park and for various other local government agencies. E.J. Militello Concrete has been found to have the qualifications and experience to perform this work adequately. I have no reservation about their capabilities.

WHEREAS, there is presently \$300,000.00 plus interest allocated under Road Reconstruction (Philson Drive), Capital Project #H-58 for this work per Capital Project meeting.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Concrete Gutters for Philson Drive Road Reconstruction Project Concrete Gutters & Curley Drive and Windgate Road Miscellaneous Concrete Repairs to the lowest responsible bidder, E.J. Militello, 8565 Roll Road, Clarence Center, New York 14032 in the amount not to exceed \$80,169.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #2 Approve Out of District Sanitary Sewer Request and Sign Sewer Agreement

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

WHEREAS, Boston Valley Holdings LLC has requested approval of Out of District Sewer Connection for Westgate Estate Apartments, located on Westgate Blvd., Orchard Park, with the Town of West Seneca Sewer District #13 and Sewer District #14, and

WHEREAS, currently, there are no public sanitary sewer lines available within the Town of Orchard Park Sanitary Sewer District #18 for Westgate Estates connection. Therefore, an Out of District Sewer Connection with West Seneca is warranted, and

WHEREAS, the proposed Westgate Estates project includes six (6) 2-story 8-unit apartment buildings located on Westgate Boulevard, which would connect into the Town of West Seneca Sewer District #14, and three (3) 2-story 2-unit duplex townhouse buildings located on Reserve Road, which would connect into the Town of West Seneca Sewer District #13.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the Out of District Sanitary Sewer request of Boston Valley Holdings LLC for the proposed Westgate Estates Apartments, and authorize the Supervisor to sign an agreement between Orchard Park District #18 and Town of West Seneca Sewer District #13 and Sewer District #14.

The resolution was unanimously adopted.

Old Business #3 Approve a Change Order to Contact with Professional Civil Engineering LLC

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

WHEREAS, the Engineering Department is requesting approval for Change Order #1 to the contract with Professional Civil Engineering, LLC for the HEC-RAS Modeling of the Floodplain for Brush Mountain Park this would increase the total contract amount to \$16,080.00, representing an increase of 9.83%, and

WHEREAS, this change order is requested to analyze an additional crossing option within the proposed conditions HEC-RAS model for the proposed bridge crossing but was not received in time before the original contract was approved. Three (3) crossing options (box culvert, culvert, Conspan type unit) will now be analyzed to determine the bridge shape/size to minimize the potential increases in flood hazards due to the development. In addition, the existing downstream culvert crossing has overtopped during past storm events. Instead of modeling a known flood hazard, the existing culvert crossing will be analyzed

and modified as necessary to mitigate any increased flood hazards proposed under the Brush Mountain Park improvements.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 to the contract with Professional Civil Engineering, LLC for the floodplain modeling at the Brush Mountain Park in the amount not to exceed \$1,440.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #4 Release \$5,000 Held in Escrow for PIP #2015-01 for Electrical Services

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

WHEREAS, on September 23, 2015, the Town Board accepted dedication of the public improvements constructed in the above referenced Subdivision with the stipulation that escrow be held until the relocation of the electrical service for 5980 Armor Duells Road off Sublot #9 and the removal of all service poles, per plans, were completed, and

WHEREAS, the Contractor has since completed all work. The work was inspected by the Engineering Department and found to be in compliance with Town specifications.

NOW, THEREFORE, be it

RESOLVED, the that Town Board does hereby authorize the Town Clerk to release the \$5,000 held in escrow under PIP #2015-01 for the relocation of the electrical service for 5980 Armor Duells Road, and removal of service poles from Sublot #9 in the Armor Meadows 9-lot Subdivision to 5980 Armor Duells Road LLC, 470 Cayuga Road, Cheektowaga, New York 14225, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #1 Authorize Recreation Department fees for 2016

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

RESOLVED, that the Town Board does hereby authorize hereby Recreation Department Fees for 2016 as follows:

Summer Camps/week	\$190.00
Swim Lessons/session	\$ 65.00
Youth Programs/session	\$ 65.00
Pre School Programs/session	\$ 90.00
Special Event Application Fee	\$ 75.00
Picnic Shelters Large	\$125.00
Picnic Shelters Small	\$ 75.00
Diamond Permit/day	\$ 25.00
Non Resident Fee	\$ 10.00

The resolution was unanimously adopted.

New Business #2 Authorize Municipal Cooperation Agreement for Electrical Inspection Services

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

THIS AGREEMENT is made this 1st day of January, 2016 by and among the **TOWN OF WEST SENECA**, a municipal corporation of the State of New York with principal offices located at 1250 Union Road, West Seneca, New York (hereinafter referred to as "West Seneca") and the **TOWN OF ORCHARD PARK**, a municipal corporation of the State of New York with principal offices located at 4295 South Buffalo Street, Orchard Park, New York (hereinafter referred to as "Orchard Park") (collectively the "Parties").

WHEREAS, pursuant to Article 8, Sections 1 and 2-a of the New York State Constitution, as effectuated by General Municipal Law §119-o municipal corporations and districts of the State are empowered to enter into agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis; and

WHEREAS, West Seneca and Orchard Park are required by the laws of the State of New York to administer and enforce the New York State Uniform Fire Prevention and Building Code (hereinafter referred to as the "Uniform Code") within their respective boundaries; and

WHEREAS, West Seneca and Orchard Park have duly adopted Electrical Inspection Ordinances authorizing their respective Code Enforcement Officers and deputies to make inspections and re-inspections of all electrical installations within their respective boundaries; and

WHEREAS, West Seneca and Orchard Park have determined that such services might be better and more efficiently provided to their residents and property owners by the cooperative efforts contemplated by this Agreement; and

WHEREAS, West Seneca has appointed a full-time Electrical Inspector to make inspections and re-inspections of all electrical installations (the "Electrical Inspection Services") within its boundaries and Orchard Park is desirous of engaging and sharing the services of the same.

NOW, THEREFORE, IT IS MUTUALLY AGREED AND PROVIDED AS FOLLOWS:

1. West Seneca agrees to provide Electrical Inspections Services to Orchard Park, subject to the provisions of this Agreement.
2. Orchard Park shall appoint West Seneca's Electrical Inspector, for the term of this Agreement, to act as its Electrical Inspector.
3. The Electrical Inspector shall spend approximately 60% of the work week performing Electrical Inspection Services for West Seneca and 40% of the work week performing Electrical Inspection Services for Orchard Park.
4. Each municipality shall independently maintain records, set and collect fees for electrical inspections within their respective boundaries.

5. The term of this agreement shall initially be for one (1) year, extending from January 1, 2016 to December 31, 2016, but shall automatically renew upon the same terms and conditions unless either of the Parties provides written notice not later than September 1st of any year that they will not be participating in such cooperative program for the upcoming year.
6. Orchard Park shall pay West Seneca for Electrical Inspection Services in accordance with the amounts set forth in Schedule A, hereto and made a part hereof (the "Schedule"), which shall be paid in quarterly installments. Upon written notice to Orchard Park, West Seneca may revise the Schedule.
7. To the fullest extent permitted by law, Orchard Park shall
 - a. Be solely responsible for and shall indemnify, defend and hold harmless West Seneca, its officers, employees, agents and servants (the "Indemnitees") from and against any and, all liabilities, losses, costs, expenses, attorneys' fees and disbursements and damages arising out of or in connection with this Agreement, provided, however, that nothing hereunder shall obligate Orchard Park to indemnify or hold harmless the Indemnitees from and against any and all losses arising from the negligence of the Indemnitees.
 - b. Procure and maintain and furnish certificates of insurance evidencing commercial general liability insurance covering the liability of Orchard Park and indemnifying, defending and holding harmless West Seneca, its agents, employees and representatives from any and all loss and/or damage arising out of the performance of this Agreement with a combined single limit (bodily injury/property damage) of Two Million Dollars (\$2,000,000). West Seneca and its agents, employees and representatives shall be named as additional insureds on said policy, and entitled to thirty (30) days of advance written notice of any cancellation or termination thereof.
8. West Seneca shall procure and maintain and furnish certificates of insurance evidencing commercial general liability insurance covering the liability of West Seneca and indemnifying, defending and holding harmless Orchard Park, its agents, employees and representatives from any and all loss and/or damage arising out of the performance of this Agreement with a combined single limit (bodily injury/property damage) of Two Million Dollars (\$2,000,000). Orchard Park and its agents, employees and representatives shall be named as additional insureds on said policy, and entitled to thirty (30) days of advance written notice of any cancellation or termination thereof.
9. This Agreement shall be interpreted to be in compliance with the provisions of Article 5-G of the General Municipal Law, and shall also be interpreted to be in compliance with the Civil Service Law of the State of New York.
10. If any portion of this Agreement is found to be invalid the remainder of this Agreement shall continue in full force and effect, subject to necessary changes to address such partial invalidity.
11. Each participating municipality hereby signifies its approval of this Agreement and authorizes its Chief Executive Officer to execute this Agreement on its behalf.

The resolution was unanimously adopted.

New Business #3 Authorize Budget Amendment for Right of Way Repair

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

WHEREAS, the Town incurred considerable damage to its "Right of Ways" during last November's significant snow event, and

WHEREAS, the cost of repairing such damage, \$147,096.76 was not anticipated nor budgeted for during the 2015 budget process, and

WHEREAS, the Town has received emergency disaster assistance in 2015 from the Federal government for certain other Town costs related to the aforementioned 2014 snow event, and

WHEREAS, the emergency disaster assistance received from the Federal government was not anticipated nor budgeted for during the 2015 budget process.

NOW, THEREFORE, be it

RESOLVED, that the Town authorizes the following budget amendment to its 2015 Highway Fund budget:

Increase estimated revenue:	
D510.4960 Emergency Disaster Assistance	\$147,096.76
Increase budget appropriations:	
DA.5110.4770 Maintenance of Roads - contracted services	\$4,676.23
Increase budget appropriations:	
DA.5140.0144 Brush — Laborers	\$94,550.00
Increase budget appropriations:	
DA.5130.0200 Highway — Equipment	\$47,870.53

The resolution was unanimously adopted.

New Business #4 Refer to Planning, Conservation and Architectural Review

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby refer the following to the Planning, Conservation and Architectural Overview Boards:

- 3880 Abbott Road, Jay Milligan, located on the west side of Abbott Road, south of Rt. 20, Zoned B2. Requests a "Change-In-Use Permit" from Residential use, to Commercial Use. (SBL# 161.00-5-12)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Brendan Cunningham spoke of the sidewalk ordinance on North Buffalo Road. He said the new ordinance is impractical and unfair. Specifically the sidewalk is not on property zoned in the deed of the property that he owns. The sidewalk is on public land and the landowner has no ownership. Requesting

that the town revisit this, and it is more appropriate for the town to maintain the sidewalks on state plowed roads (North Buffalo Rd).

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem mentioned the Sanitary Sewer and Cooperative Municipal Agreement with West Seneca, and that the town continues to work on shared services with other towns to try to save money.

Supervisor Keem stated that when he took office and got a stipend for the Budget that he would donate that dollar amount to charities. In 2015, 27 different charities benefited and an advertisement (Paid by himself) in the Pennysaver will list those charities that benefited.

Supervisor Keem likes to mention town employees who get recognition from organizations, and wanted to recognize Highway Superintendent Fred Piasecki who was voted 2015 Leader of the year from the American Public Works Association (APWA) of Erie County.

Stare of Orchard Park address will be February 17, 2016 at 6:30pm.

Police Chief Mark Pacholec thanked the ball drop committee for the great job they did in the village of OP for New Year's Eve, and wanted to remind residents (and their plow services) that they should not be pushing snow into the roadways or on neighbors' lawns.

BUDGET TRANSFERS

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

Highway

From:	To:	
DA.5130.0144 Machinery –Laborers	DA.5110.0144 HWY - Laborers	\$14,500.00
DA.5130.0144 Machinery - Laborers	DA.5142.0144 Snow - Laborers	\$59,000.00

Highway – Compost

From:	To:	
800.8161.0411 Compost – Recycling	800.8161.0149 Compost-P/T Personnel	\$1,500.00
800.8161.0413 Compost - Training	800.8161.0149 Compost-P/T Personnel	\$ 400.00
800.8161.0499 Compost – Misc	800.8161.0423 Compost - Water	\$ 273.55

Highway – Parks

From:	To:	
A.7110.0149 Parks – P/T Laborers	A.7110.0102 Milestrip – P/T Laborers	\$1,615.00
A.7110.0475 Parks – Gasoline	A.7110.04214 Parks 0- Electric	\$2,000.00

The resolution was unanimously adopted.

11) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #1 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$81,112.00
Public Safety Fund	\$26,515.18
Part Town Fund	\$2,014.70
Risk Retention	-
Cemetery Fund	-
Highway Fund	\$28,744.77
Special Districts	\$161,955.38
Trust & Agency	\$9,041.61
Capital Fund	\$418,012.04

The resolution was unanimously adopted.

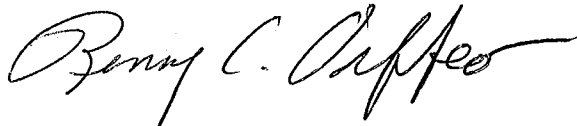
12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the Building Inspector December Report.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilman Majchrzak, the meeting adjourned at 8:00 pm (local time).

Respectfully Submitted,



**Remy Orffeo
Town Clerk**