

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 4th day of January 2012 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Janis Colarusso	Supervisor
	David Kaczor	Councilmember
	Eugene Majchrzak	Councilmember
	Carol Hutton	Town Clerk
	John C. Bailey	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

Supervisor Colarusso 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 COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

RESOLVED, that the Regular Town Board Meeting minutes held on December 21, 2011 & the Executive/Special Session Meeting Minutes of December 21 & 28, 2011 are hereby approved, 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.

PUBLIC HEARING

At 7:00 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the Proposed Local Law for the Year 2012: Alarm System Code.

Affidavits and Publication of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk.

At this time, Supervisor Colarusso asked Lieutenant Pacholec to explain the Proposed Local Law – Avoidable Alarm Code §65C of the Town Ordinance. Lt. Pacholec explained that a large amount of the alarm calls that come in are false alarms, which are a waste of resources and staff hours in regard to crime prevention. Also, the police study that was conducted recommended that the Town get an alarm abatement program. The proposed ordinance is identical to those ordinances in the Towns of West Seneca and Hamburg. Lieutenant Pacholec stated that acts of nature and break-ins would not be penalized, which is explained in the ordinance. He explained how and what the fines would be assessed through the calendar year. There will be an educational process to show where improvements can be addressed with business alarm systems.

Councilmember Kaczor stated that the Towns of West Seneca and Hamburg saw an improvement within a few years.

Councilmember Majchrzak stated that most of the alarm problems for businesses or homeowners are maintenance issues.

Supervisor Colarusso credited Police Chief Benz and his Department for their work on this proposed ordinance.

David Buyer – He stated that the late former Police Chief, Robert Henning and Councilmember Kaczor raised this issue many years ago. False alarms are a sensitive issue, but it needs to be addressed to reduce the cost and bring it under control. He questioned if the amount of the fines were enough.

Nicholas Taneff – He is in favor of the Avoidable Alarm Ordinance and also questioned the amount of the fines. He asked Lieutenant Pacholec how the business owners were notified.

Police Chief Benz – He stated that there will be fair warning in writing sent to inform the businesses of the fines. He thanked Lieutenant Pacholec for his work in obtaining the information. Police Chief Benz also stated that along with the false alarms, there are risks to the officers who respond to them.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby close the Public Hearing for the Proposed Local Law for the Year 2012: Alarm System Code, at 7:14 pm.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby adopt Local Law One (1) for the Year 2012: Alarm System Code, which reads as follows:

ALARM SYSTEM CODE

§65-6. Avoidable alarms.

A. General provisions.

(1) The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system, or of his employees, requiring an emergency response when, in fact, an emergency does not exist constitutes an avoidable alarm. An avoidable alarm also includes intentional activation of an alarm system when the activator knows an emergency situation does not exist.

(2) An avoidable alarm does not include alarms activated by violent conditions of nature or similar cases beyond the control of the user, owner or operator of the alarm system. The activation of an alarm system under any circumstances in which the activator reasonably believes that an emergency situation exists shall not be deemed to be an avoidable alarm.

B. Charges. An owner or lessee of real property to which an emergency agency responds as a result of an avoidable alarm shall pay a fee for each such response in each calendar year as follows:

(1) Police Department response:

- (a) First through third avoidable alarm responses: no charge
- (b) Fourth and fifth avoidable alarm responses: \$50 for each
- (c) Sixth and over avoidable alarm responses: \$100 for each

(2) Fire District response:

- (a) First avoidable alarm response: no charge
- (b) Second through fifth avoidable alarm responses: \$50 for each
- (c) Sixth and over avoidable alarm responses: \$100 for each

C. Notice of excessive use. The owner or lessee of real property which received an emergency response by reason of an avoidable alarm shall be notified, in writing, by means of first class mail, of all avoidable alarms, up to three police alarms and/or one fire alarm in a calendar year. The letter shall inform the owner or lessee of the times and types of emergency responses provided to the address location and shall contain a copy of this Alarm Code.

D. Administrative review. The Chief of Police shall establish a policy and procedure whereby an owner of real property or lessee thereof on which an alarm system has been installed and who has been notified of an avoidable alarm may present evidence as to why such alarm should not be classified as an avoidable alarm. The Chief of Police shall designate the members of the Police Department, not to exceed five (5) in total, to receive such evidence and make recommendations and findings of fact concerning such classification. The Chief of Police shall make the final determination concerning a classification, which determination shall be reviewed only pursuant to procedures under Article 78 of the Civil Practice Law and Rules. To challenge the classification of an alarm as an avoidable alarm, the real property owner or lessee thereof shall, in writing, notify the Chief of Police within 20 days after the receipt of notice of the avoidable alarm. The failure to give timely notice shall be deemed a waiver of the right to review the determination.

E. Payment of charges. Avoidable alarm charges shall be paid to the Town Clerk of the Town of Orchard Park at S 4295 South Buffalo Street, Orchard Park, NY 14127.

F. Failure to remit fee. A real property owner or lessee of property on which an alarm system is installed who fails to pay the avoidable alarm charge within 30 days from notice of the amount due shall be deemed in violation of this code; and such real property owner or lessee shall be served with a summons.

§66-7. Enforcement.

The Chief of Police shall enforce this chapter for alarm systems which detect medical emergencies and entry or exit from a building, structure or facility; and for alarm systems which detect smoke, fire or abnormal rise in temperature.

The resolution was unanimously adopted.

New Business #1 Town Board Creation of Police Procedures & Operations Review Committee

4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby authorize the creation of Police Procedures & Operations Review Committee for the Year 2012. The appointments to the Committee will be made at the January 18, 2012 Town Board Meeting.

Supervisor Colarusso stated that the Town Board has not yet finalized the Committee, which was proposed after the submission of the ICMA report to streamline the Police Department. Councilmember Kaczor stated that the Town Board is hopeful that the Committee can accomplish more efficient procedures in the Police Department and eventually assist in reviewing all the departments.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

No one spoke.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Colarusso – She stated that she is excited about the new Police Procedures & Operations Review Committee. She welcomed everyone in attendance and hoped for a great new year. Supervisor Colarusso welcomed the newly appointed Town Attorney, John Bailey. Mr. Bailey expressed his gratitude to the Town Board and was looking forward to the challenge.

Councilmember Kaczor – He stated that he felt that last year was challenging, but it aided in developing good communications and a better working relationship with employees and Department Heads. There also was stimulating dialog with the residents on the level of services provided. Councilmember Kaczor stated that this year would also be challenging and the Town Board would have to start early with budget issues. He was looking forward to the new Police Procedures & Operations Review Committee and felt it would bring great ideas for the community.

Councilmember Majchrzak – He welcomed Town Attorney John Bailey and looked forward to working with him. He thanked everyone that volunteered in 2011 and the participation from the residents. Councilman Majchrzak stated that he is looking forward to the challenges in 2012.

Police Chief Benz – He wanted the residents to be mindful of the impending snow and please not leave snow in the street or neighbors driveways.

Highway Superintendent Piasecki – He stated that the Highway Department is picking up Christmas trees and branches for the Compost Site.

Town Engineer Bieler – He reported on the required 4 hour training hosted by Erie County Soil Water Conservation District and WNY Stormwater Coalition for construction site contractors and developers on January 26, 2012 & February 23, 2012 at the Erie County Emergency Training Facility at 3359 Broadway, Cheektowaga, NY.

Councilmember Kaczor – He stated that there are openings for the Insurance Committee and the Historic Preservation Committee.

5) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, 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	\$42,075.86
Part Town Fund	\$621.04
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$21,165.13
Special Districts	\$8,480.32
Trust & Agency	\$2,452.69
Capital Fund	\$138,258.94

The resolution was unanimously adopted.

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby receive & file the following report:

- Building Inspector’s Monthly Report for the month of December 2011.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Majchrzak, the meeting was adjourned at 7:16 PM (local time).

Respectfully Submitted,



Carol R. Hutton
Town Clerk