

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 5th day of January 2005 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Toni M. Cudney	Supervisor
	Nancy W. Ackerman	Councilwoman
	Stanley A. Jemiolo	Councilman
	David R. Kaczor	Councilman
	John J. Mills	Councilman
	Janis A. Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Samuel McCune	Chief of Police
	Ronald A. Geitter	Highway Superintendent
	Wayne Bieler	Town Engineer

The Supervisor 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.”*

At this time, Supervisor Cudney introduced two Orchard Park High School senior students, Jeff Fritz and Matt Felong, who have just completed their government internship in her office.

Old Business #1 Boston Valley Terra Cotta requesting a Building Permit for an Addition

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

RESOLVED, that the Town Board does hereby approve the request of Boston Valley Terra Cotta, 6860 South Abbott Road, for a Building Permit to construct a 1,980 square foot glazing addition, a 20,000 square foot production building and a new office building, loading dock and shipping area. The Planning Board, 12/8/04, recommends approval of this request and of the site plan with the following stipulations:

- This is an Unlisted SEQR Action based on the submitted Long EAF, Parts One and Two and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- Town Engineering approval has been granted upon receiving the necessary variances from the Zoning Board of Appeals meeting held on 12/21/04.
- The Town requires a three-year landscape bond in the amount of \$ 35,189.00 or certified check in the amount of \$ 17,594.50.

The resolution was unanimously adopted.

Old Business #2 Award Bid for the New Marked & Unmarked 2005 Police Cars

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

WHEREAS, sealed bids for One (1) New Unmarked 2005 Police Vehicle and Three (3) New Marked 2005 Police Vehicles were opened on December 29, 2004 at 10:00 AM, in the Supervisor's Conference Room

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the bid for one (1) New Unmarked 2005 Police Vehicle and Three (3) New Marked 2005 Police Vehicles to DeLacey Ford, Inc., 3061 Transit Road, Elma, New York 14059, in the amount not to exceed \$53,788.00, they being the lowest responsible bidder thereof, as recommended by the Chief of Police and the Town Attorney.

The resolution was unanimously adopted.

Old Business #3 Award Bid for the New 2005 4x4 Truck Cab – Chassis for the Engineer Dept.

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR CUDNEY, TO WIT:

WHEREAS, sealed bids for One (1) New 2005 4x4 Truck Cab - Chassis were opened on December 30, 2004 at 10:00 AM, in the Supervisor's Conference Room

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the bid for one (1) New 2005 4x4 Truck Cab – Chassis to DeLacey Ford, Inc., 3061 Transit Road, Elma, New York, in the amount not to exceed \$22,357.00, they being the lowest responsible bidder thereof, as recommended by the Town Engineer and the Town Attorney.

The resolution was unanimously adopted.

New Business #1 Authorize Supervisor to sign Agreement for the Civil Service Employees Assoc.

4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, an agreement between the Town of Orchard Park and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO (Unit #6765-01) hereby stipulates the following:

- CSEA agrees that the position of Assessor will not be part of the CSEA White Collar bargaining unit.
- The Town of Orchard Park has decided to transfer the provisional position of Assistant to the Assessor to Real Property Appraiser. The current provisional employee in the provisional position of Assistant to the Assessor will be placed in the CSEA bargaining unit position titled Real Property Appraiser at the 2004, Step 1 hourly rate, pay grade 9.
- Should the Town of Orchard Park decide to refill the position of Assistant to the Assessor, it shall automatically be placed in the CSEA White Collar bargaining unit. The title shall also be included as a CSEA represented job title and shall be incorporated in Article 1, Recognition, 1.01 Definition, first paragraph of the collective bargaining agreement.

- When the parties have fully executed this Memorandum of the Agreement, CSEA shall withdraw CP-966 by notifying the Public Employment Relations Board that the parties settled. The Town of Orchard Park shall receive a copy of the withdrawal.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Memorandum of Agreement, between the Town of Orchard Park and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, Unit #6765-01, effective January 1, 2005.

The resolution was unanimously adopted.

New Business #2 Authorize the Release of \$2,000 in Escrow for Forest Creek Subdivision, Part 2A

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

WHEREAS, the required decorative street lighting standards, along with all wire and conduit, have now been installed for the Forest Creek Subdivision, Part 2A, PIP #2004-02, and

WHEREAS, the work was inspected by the Engineering Department and found to be in compliance with Town specifications

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the \$2,000 held in escrow under PIP #2004-02, for the completion of decorative street lighting in the Forest Creek Estates Subdivision, Part 2A, to Forbes Homes Orchard Park Special, Inc., 2635 Millersport Highway, Getzville, New York 14068, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #3 Authorize the Release of \$2,000 in Cash under Excavation Permit #2001-01

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

WHEREAS, on July 5, 2001, the Town Board approved Excavation Permit #2001-01 for 7355 East Quaker Road, with the stipulation that in lieu of a standard construction bond, a cash bond security in the amount of \$2,000 paid by the applicant, be held in escrow until the work was completed and accepted by Town Engineer's Department, and

WHEREAS, the applicant has completed his filling operation, the area has established turf, the work was inspected by the Engineering Department and found to be in compliance with Town specifications.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the cash bond security in the amount of \$2,000 to Edmund F. Burke, 6455 Lake Avenue, Orchard Park New York 14127, for Excavation Permit #2001-01, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Traffic Orders for Birdsong Subdivision

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Police Chief, Highway Superintendent and the Town Engineer have all reviewed the street layout for Birdsong Subdivision, Part 3A, Phases 1 and 2, and

WHEREAS, upon recommendation of the Chief of Police, the Highway Superintendent and the Town Engineer, and pursuant to the authority granted by Section 1660 of the Vehicle and Traffic Law of the State of New York

NOW, THEREFORE, be it

ORDERED, that three (3) Stop Signs be erected, effective immediately, within the Town of Orchard Park, outside the incorporated Village of Orchard Park, at the following locations:

- on Mallard Lane at the intersection of Birdsong Parkway
- on Mourning Dove Court at the Intersection of Mallard Lane
- on Sandpiper Court at the intersection of Mallard Lane

And it is further

ORDERED, that the Superintendent of Highways be and is hereby directed to post the proper and necessary sign at said location.

The resolution was unanimously adopted.

New Business #5 Authorize the Release of \$500 in Escrow under PIP #2003-02

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MILLS, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR CUDNEY, TO WIT:

WHEREAS, on October 5, 2004, the Town Board accepted dedication of the Public Improvements constructed for Barrington Heights Subdivision, Part 1, Phase 2, with stipulations that funds paid by the contractor be held in escrow until repairs to 30-feet of concrete gutters were completed, and

WHEREAS, the contractor has since completed the required concrete gutter repairs on Templeton Trail and the work was inspected by the Engineering Department and found to be in compliance with Town specifications

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release to Anastasi Trucking & Paving Company at 6495 Transit Road, Bowmansville, New York, 14026, the \$500 held for concrete gutter repairs in the Barrington Heights Subdivision, Part 1, Phase 2, PIP #2003-02, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Set Public Hearing for Local Law #1, Alternate Members to the Planning Board

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, February 2, 2005, at 7:00 PM (local time) for Proposed Local Law #1-2005, which proposed local law repeals Legislative Intents §2-2-A – Legislative Intent Subdivision A and adopts new language for this section, and be it further

RESOLVED, the Town Clerk shall publish due notice in the official paper of the Town.

The resolution was unanimously adopted.

New Business #7 Approve Public Stable Permit for Elizabeth & Kevin Schott, 6305 S. Abbott Road

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby approve Public Stable Permit for the Year 2005 for Elizabeth and Kevin Schott, 6305 South Abbott Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #8 Refer to the Conservation Board

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:

RESOLVED, that the Town Board does hereby refer the following application for a Conservation Easement to the Conservation Board: Tony Hughes & Carole Owens, 5895 Cole Road; James & Toni Cudney, 5991 Scherff Road; Robert Santuci, 5886 Seufert Road; Raymond Williams, 6806 Cole Road.

Councilman Jemiolo stated that this program is progressing and thanked Supervisor Cudney for her involvement.

Councilwoman Ackerman thanked George Schichtel, Anne Bergantz and the rest of the members of the Conservation Board for their efforts.

Supervisor Cudney	Recused
Councilwoman Ackerman	Aye
Councilman Jemiolo	Aye
Councilman Kaczor	Aye
Councilman Mills	Aye

The resolution was duly adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

Budget Transfers

12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby approve the following budget transfers:

Town Justice:

\$ 500.00 **From:** A.1110.0137 Clerical Personnel
 To: A.1110.0139 P/T Clerical

\$ 150.00 **From:** A.1110.0449 Court Reporter
 To: A.1110.0419 Town Justice Other Expense

Town Clerk:

\$ 345.55 **From:** A.1410.0110 Election Inspector's
 To: A.1410.0461 Records Management

Highway Superintendent

\$ 1,000.00 **From:** DA.5110.0149 P/T Labor
 To: DA.5110.0440 Equipment Rental
85,000.00 **From:** DA.5110.0144 Summer Labor
 To: DA.5140.0144 Brush Labor
8,000.00 **From:** DA.5110.0473 Ready Mix
 To: DA.5110.0472 Oil & Stone
3,500.00 **From:** A.7110.0144 Labor
 To: A.7110.0475 Gas & Oil
1,000.00 **From:** A.7110.0144 Labor
 To: A.7110.0445 Repairs
150.00 **From:** A.7110.0419 Other Expenses
 To: A.7110.0446 Equipment Repair
375.00 **From:** A.5010.0137 PT Clerical
 To: A.5010.0400 Office Supplies

The resolution was unanimously adopted.

Councilwoman Ackerman wished everyone the best in the New Year, and thanked the Town Board members, and all the staff, for the wonderful jobs they are doing, and will continue to do as they serve the Town in the best possible way.

Councilman Mills stated that the Town Board will continue interviewing for the Town Assessor and hopes to complete the process soon.

The Town Clerk stated that she had the Oath Book available for signatures for any appointees in the audience this evening.

DEPARTMENT HEADS FROM THE FLOOR

No one spoke.

13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, 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	\$ 185,048.20
Part Town Fund	6,569.73
Risk Retention	0.00
Cemetery Fund	0.00
Highway Fund	86,442.77
Special Districts	77,933.19
Trust & Agency	25,817.85
Capital Fund	9,234.77

The resolution was unanimously adopted.

Receive & File Reports

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following Reports: Annual Report from the Youth Bureau for the Year 2004.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Nicholas Taneff, 279 Summit Avenue: Mr. Taneff stated that through the Planning Board he learned that Mr. Brent James from Diversified Controls has requested that his landscape bond be returned. Mr. Taneff stated that this not only was an insult to the residents of Summit Avenue, but to all the business people of the Town of Orchard Park who adhere to Town guidelines. Mr. Taneff has researched the Diversified Controls process and progress through *Freedom of Information Act* and gave a synopsis of the history from 2000 to the present, of the dealings between Diversified Controls and the Summit Avenue residents. He submitted an original landscape map and a revised map to the Town Board. Mr. Taneff further stated that the Town Board has gone out of their way to accommodate businessman Mr. James and he does not want to believe that Brent James contributions to the Republican Party has in any way swayed the Town Board. Mr. Taneff stated that the only way the Town Board can reassure the residents, is to tell Mr. James that the landscape bond will not be returned to Diversified Controls, and should be appropriated in such a way as to incorporate a plan forwarded by the Planning Board Coordinator and the Building Inspector from September 14, 2004. Mr. Taneff stated that the belief that Mr. James was willing to work with the residents of Summit Avenue and the Town Board is a myth. Mr. Taneff stated that based on conversation with Councilman Mills, Town Arborist, Lynn Reynolds and Conservation Board Member, George Schichtel, there should be a meeting to get everybody associated involved with the particulars.

Councilwoman Ackerman stated that she did not have any knowledge of contributions from Mr. James to the Republicans. She told Mr. Taneff that the landscape bond would not be returned until the landscaping is completed to the satisfaction of the Town Board. Councilwoman Ackerman further stated that in the spring the tree planting will take place by Lynn Reynolds. Councilwoman Ackerman stated to Mr. Taneff that he has a signed document stating what was agreed to by the Town Board. The Town Attorney stated that the Town Board can't unilaterally use the landscape bond to plant trees. If Mr. James is in violation of any of the requirements, he will be brought into the Town Court to deal with it.

Councilman Mills asked Mr. Taneff to verify that he was not on the Town Board in the year 2002-03. Councilman Mills stated that he intends to hold Mr. James accountable and stated if Diversified Controls is using the access road for anything other than emergency vehicles, it is a violation. Mr. Taneff asked if he could be involved with the upcoming meeting. Councilman Mills stated that Mr. Taneff is entitled to have the situation rectified and Mr. James has a right to conduct his business since it is zoned for industrial use.

There being no further business from the floor, on motion by Supervisor Cudney, seconded by Councilman Jemiolo, to wit: the meeting was adjourned with a moment of silence in memory of all the people of the world affected by the Tsunami, at 7:45 PM (local time).

Respectfully Submitted,


Janis A. Colarusso
Town Clerk