

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 2nd day of February 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
	Ernest Matthews	Deputy Highway Superintendent
	Wayne Bieler	Town Engineer

ABSENT: Ronald A. Geitter Highway Superintendent

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."*

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

RESOLVED, that the minutes of the Town Board Meetings held on January 5 & January 19, 2005, as presented by the Town Clerk, 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 2005, which reads as follows: Proposed Amendment to the Town Code of Ordinances: §2-2-A Legislative Intent Subdivision A, Alternate Members of the Planning Board.

The following language is hereby adopted to replace Section 2-2-A. Legislative Intent Subdivision A:

It is the desire of the Planning Board to have a full compliment of voting members at each meeting in which action is to be taken on an application. In any instance where a voting member of the Planning Board is absent, the use of an Alternate Member is hereby authorized pursuant to the provisions of this Chapter, the Planning Board hopes to keep its Alternates informed and active in Town matters.

Affidavits of Publication and Posting 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 Cudney opened the Public Hearing to hear all interested persons for or against the Proposed Local Law for the Year 2005. **No one spoke.**

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

RESOLVED, that the Public Hearing in the matter of the Proposed Local Law for the Year 2005; §2-2-A Legislative Intent Subdivision A, Alternate Members of the Planning Board, is hereby closed at 7:10 PM (local time).

The resolution was unanimously adopted.

New Business #1 Authorize the posting of a 35 MPH Speed Limit Sign on Dennis Drive

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

WHEREAS, per the request from the Public Safety Committee, and pursuant to the authority granted by Section 1660 of the Vehicle and Traffic Law of the State of New York

NOW, THEREFORE, it is hereby

ORDERED, that the posting of two (2) 35 MPH Speed Limit Signs be erected immediately on Dennis Drive, within the Town of Orchard Park and outside the Village of Orchard Park

And it is further

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

The resolution was unanimously adopted.

New Business #2 Approve Change Order #4 to the Contract with Kandey Company

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

WHEREAS, the Engineering Department is requesting the approval of a Change Order to the contract with Kandey Company, Inc., for the Comprehensive Water System Improvement Project, Part 2, in the amount of an increase of \$6,332.50, which would increase the total contract to \$1,421,885.39, representing an increase of 0.45%, and

WHEREAS, the first part of this Change Order consists of repairs to underground utilities at 5158 South Freeman and an easement was obtained from the owners of this property to properly make the Lakeridge Drive waterline interconnect, and

WHEREAS, during the course of construction, the electric, telephone and cable lines were broken because none of these utilities were marked in the area being on private property. Kandey Company incurred charges of \$4,795.36 for immediate repairs to these utilities, and

WHEREAS, contract work at the Windom Tank on Lake Avenue was delayed for nearly six hours due to the Erie County Water Authority's failure to provide a complete water shutdown in the affected area, Kandey Company had to complete this work on another date.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #4 to the contract with Kandey Company, Inc., for the Comprehensive Water System Improvement Project, Part 2, in the amount of an increase of \$6,332.50.

The resolution was unanimously adopted.

New Business #3 Authorize the Release of Escrow for Retention with Kandey Company

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

WHEREAS, the Engineering Department is requesting the approval for a partial release of retention to Kandey Company, Inc., for the Comprehensive Water System Improvements Part II in the amount of \$71,500, and

WHEREAS, Kandey Company had substantially completed their contract on June 24, 2004. The majority of the work items completed after that date required Janik Paving and Construction, Inc., the contractor for the Comprehensive Water System Improvements Part I Project to complete various sections of their system and establish ECWA supply to the area, and

WHEREAS, due to the delays in waiting for Part I work to be completed, Kandey Company could not return to complete their work until November 19, 2004, with the anticipation of some minor additional work, which may be added to the contract as a change order, and

WHEREAS, the Town Engineer feels it is proper to release a majority of the Comprehensive Water System Improvements Part II Project's retention and leave the contract open and Kandey Company has agreed to leave the contract open until the spring of 2005, and

WHEREAS, the retention in the amount of \$1,700.00 will be held until the spring of 2005, when the lawn restoration repair areas, trench settlement, tree plantings, etc., can be checked. In addition, Kandey Company has requested payment for ECWA shutdown charges, which total \$4,274.67

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the partial release of retention to Kandey Company, Inc., for the Comprehensive Water System Improvements Part II Project in the amount of \$71,500.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Authorize the Town Attorney to Proceed with Dedication for PIP #2004-06

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

WHEREAS, on January 10, 2005, a final inspection was conducted of the public watermain extension improvements constructed in association with the construction of the Lowe's Home Improvement Center on Southwestern Boulevard. This project included the installation of 1,125 linear feet of 12-inch waterline along North Buffalo Road and Southwestern Boulevard, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the replacement to sidewalk and asphalt apron, and repairs to grading and seeding areas. We are in receipt of \$2,500 cash securities to replace sidewalk and asphalt apron and \$1,500 cash securities for repairs to grading and seeding areas, which will be held in escrow until that work has been satisfactorily completed and a two-year maintenance bond in the amount of \$37,500 has been submitted along with all other necessary documents

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Lowe's Home Improvement Center Watermain Extension constructed under PIP #2004-06, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the cash performance security in the amount of \$7,500.00.

The resolution was unanimously adopted.

New Business #5 Public Safety Committee requesting the Town to contact NYSDOT

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

WHEREAS, at the January 18, 2005 meeting of the Orchard Park Public Safety Committee, Member Robert Henning pointed out the very poor site distance at the intersection of Taylor Road and Southwestern Boulevard, and

WHEREAS, the existing "retaining" wall is no longer necessary as the configuration on the property has changed and the wall could be reduced. Mr. Henning would like to have the New York State Department of Transportation review the area and the site distance and then meet with the committee

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby direct the Supervisor to send a letter to the New York State Department of Transportation requesting to review the intersection of Taylor Road and Southwestern Boulevard, as requested by the Public Safety Committee.

The resolution was unanimously adopted.

New Business #6 OP Chamber of Commerce Erecting Banner; 2005 OP Community Marketplace

8) 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 authorize the Orchard Park Chamber of Commerce to erect a banner on the west side of South Buffalo Street, near the railroad viaduct, to promote the 2005 Orchard Park Community Marketplace, which will be held March 5th and March 6th at the Orchard Park High School.

The resolution was unanimously adopted.

New Business #7 Justine LeFauve Resigns as Secretary from the Public Safety Committee

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

RESOLVED, that the Town Board does hereby accept the resignation of Justine LeFauve, with regret, as Secretary, from the Public Safety Committee.

The resolution was unanimously adopted.

New Business #8 Appoint Marie Carruthers as Secretary to the Public Safety Committee

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

RESOLVED, that the Town Board does hereby appoint Marie Carruthers, 28 North Davis Street, to fill the vacancy of the position as Secretary for the Public Safety Committee for 2005, at her current hourly rate as 2nd Deputy Town Clerk.

The resolution was unanimously adopted.

New Business #9 Dog Control Officer Requests to Attend a Dog Seminar

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

RESOLVED, that the Town Board does hereby authorize Dennis Buczkowski, Dog Control Officer, to attend the Genesee County Training Facility, February 25, 2005, to bring him update on current affairs, at Town expense.

The resolution was unanimously adopted.

New Business #10 & 11 Refer to the Planning Board

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

RESOLVED, that the Town Board does hereby refer to the Planning Board the following requests: Dominic Corto, 4063-4065 North Buffalo Road. Requesting a "Change In Use" for the front of the building as a Salon/Spa, formerly Sorons' Jewelry, and Steven Hollins of Hoss Inc., requesting a rezone for vacant land on Webster Road, from R-2 to R-3 Special Exception Use, to construct Townhouses.

The resolution was unanimously adopted.

New Business #12 Refer to the Conservation Board

13) 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 refer to the Conservation Board the following requests for Conservation Easements to the Conservation Board: George Rozuk, 64.9 acres of vacant land on Draudt Road; Christine Weitz, 6047 Seufert Road, 17.93 acres of land; Dennis & Marsha Petrus, 6543 S. Abbott Road, 12.5 acres of land, and: Albert & Antoinette Baratto, 7560 Jewett Holmwood Road, 5.80 acres of land.

The resolution was unanimously adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

Budget Transfers for the Year 2004

14) 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 approve the following 2004 Budget Transfers:

Dog Control Officer:	\$50.00	From:	A.3510.0448	Building Maintenance
		To:	A.3510.0419	Other Expenses

The resolution was unanimously adopted.

Close a Capital Project and to Transfer Remaining Funds to the General Capital Reserve

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

WHEREAS, the purpose for the Shared Services Study Capital Project (project H43) has been completed, and

WHEREAS, the project has remaining funds of \$915.60 which were originally transferred from the Town's General Fund, and

WHEREAS, the Town wishes to use the remaining funds for additional general fund projects,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the closing of the Shared Services Capital Project (project H43) and the transfer of the remaining fund balance of \$915.60 to the General Capital Reserve (project H27).

The resolution was unanimously adopted.

Transfer Additional Funds to the Milestrip Road Recreation Area

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

WHEREAS, the Town Board wishes to proceed with construction of a pavilion (which includes concession stand, restrooms and storage) and other improvements to the Milestrip Road Recreation Area, and

WHEREAS, the Town's previously established capital project, Milestrip Road Recreation Area (project H39), does not currently have adequate funding for such improvements, and

WHEREAS, the funding for these improvements is available in the Park Land Development Trust,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the transfer of \$125,000 from the Park Land Development Trust account T037, to the Milestrip Road Recreation Area Project (project H39).

Councilman Jemiolo thanked Ed Rider, Gerard Cappelli and Ed Leak, the Recreation Director for their efforts in preparing this project.

The resolution was unanimously adopted.

Authorize Additional Spending for California Road Park Master Plan

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

WHEREAS, the Town Board wishes to prepare a master plan for the California Road Park, and

WHEREAS, the Town's previously established California Road Master Plan (project H51) Capital Project requires additional funding in order for such a master plan to be completed, and

WHEREAS, funding for this capital need is available in the Town's Park Land Development Trust account,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize a transfer of \$100,000 from Trust account T037, Park Land Development, to the California Road Master Plan (project H51).

Councilman Jemiolo thanked the following people for the preparation of this project: Recreation Director, Ed Leak, Town Engineer, Wayne Bieler, Recreation Commission member and Strategic Planner Chair, John Murphy and Recreation Chair, Audrey Ramage.

The resolution was unanimously adopted.

Authorize Additional Spending Birdsong Park Nature Preserve

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

WHEREAS, the Town Board wishes to proceed with the construction of Birdsong Park Nature Preserve, and

WHEREAS, the Town's previously established Birdsong Park Nature Preserve Project (project H23) requires additional funding in order for such a project to be completed, and

WHEREAS, funding for this capital project is available in the Town's Park Land Development Trust account,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize a transfer of \$165,000 from Trust account T037, Park Land Development, to the Birdsong Park Nature Preserve Project (project H23).

The resolution was unanimously adopted.

Transfer Additional Funds to Town Park Improvements Project

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

WHEREAS, the Town Board wishes to proceed with various improvements to Town parks, and

WHEREAS, the Town's previously established capital project, Town Park Improvements (project H07), does not currently have adequate funding for such improvements, and

WHEREAS, the funding for these improvements is available in the General Capital Reserve,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the transfer of \$40,000 from the General Capital Reserve (project H27) to the Town Park Improvements Project (project H07).

The resolution was unanimously adopted.

Transfer Additional Funds to Computer Assets Project

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

WHEREAS, the Town Board wishes to proceed with various improvements to computer systems, and

WHEREAS, the Town's previously established capital project, Computer Assets (project H67), does not currently have adequate funding for such improvements, and

WHEREAS, the funding for these improvements is available in the General Capital Reserve

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the transfer of \$17,000 from the General Capital Reserve (project H27) to the Computer Assets Project (project H67).

Supervisor Cudney stated that this transfer enables the purchase of computer hardware, software and a printer. It will also allow for a special program for the residents to pay recreation fees on line and manage the scheduling for recreation programs and the staff.

The resolution was unanimously adopted.

Authorize a Capital Project and to Fund Short Drive Drainage from Capital Reserve

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

WHEREAS, the Town Board wishes to improve drainage in the Short Drive area of Town, and

WHEREAS, the Town wishes to proceed with appropriate planning, design and engineering specifications for such drainage improvements, and

WHEREAS, funding for this capital need is available in the Town's General Capital Reserve account,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the establishment of a capital project entitled Short Drive Drainage (project H72) with authorized appropriations of \$60,000. Further, the Town Board authorizes a transfer of \$60,000 from the General Capital Reserve (project H27), to the above referenced project.

The resolution was unanimously adopted.

Authorize a Capital Project and to Fund Short Drive Drainage from Road Reconstruction Reserve

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

WHEREAS, the Town Board wishes to reconstruct Short Drive, and

WHEREAS, the Town wishes to proceed with appropriate planning, design and engineering specifications for such road, and

WHEREAS, funding for this capital need is available in the Town's Road Reconstruction Reserve account,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the establishment of a capital project entitled Short Drive Reconstruction (project H73) with authorized appropriations of \$75,000. Further, the Town Board authorizes a transfer of \$75,000 from the Road Reconstruction Reserve (project H58), to the above referenced project.

The resolution was unanimously adopted.

Authorize to Close a Capital Project and Transfer Remaining Funds to General Capital Reserve

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

WHEREAS, the purpose for the Computerized Phone System Capital Project (project H47) has been completed, and

WHEREAS, the project has remaining funds of \$63,279.72 which were originally transferred from the Town's General Fund, and

WHEREAS, the Town wishes to use the remaining funds for additional general funds project

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorized the closing of the Computerized Phone System Capital Project (project H47) and the transfer of the remaining fund balance of \$63,279.72 to the General Capital Reserve (project H27).

The resolution was unanimously adopted.

24) 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 authorize the request of the United Methodist Church of Orchard Park, 3700 North Buffalo Road, to place a temporary lighted sign on the Church lawn to advertise for their Annual Lenten Fish Dinners from February 18th to March 14th, 2005.

The resolution was unanimously adopted.

Quaker Crossing, Part II – Town of Orchard Park Seeks Lead Agency

25) 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 authorize the Town to seek Lead Agency Status in the SEQR process for the Quaker Crossing Part II Project.

The resolution was unanimously adopted.

Councilman Kaczor stated the Recreation Department will be hosting their Annual Family Skate and Winter Break Art Camp. Information is available through the Recreation Department. Councilman Kaczor thanked Ed Rider, Gerard Cappelli, Wayne Bieler, Tom Johnson, Audrey Ramage, John Murphy and Recreation Director, Ed Leak, for their endless work.

Supervisor Cudney thanked Ed Leak for his participation in the Winter Fest at Chestnut Ridge Park. On February 12th, 2005, there will be a free movie screening at Regal Cinemas with a Youth Council Presentation presented by D.A.R.E. Officer, John Payne.

DEPARTMENT HEADS FROM THE FLOOR

No reports.

26) 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 #3 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$142,079.29
Part Town Fund	7,089.50
Risk Retention	2,777.45
Cemetery Fund	0.00
Highway Fund	55,925.68
Special Districts	6,495.87
Trust & Agency	9,569.43
Capital Fund	104,547.59

The resolution was unanimously adopted.

Receive & File Reports

27) 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 receive and file the following Reports: Orchard Park Police Department Annual Report for 2004, and the Town Clerk's Yearly Report for 2004, and (not on the agenda) 2004 Year End Report for the Senior Center.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Nicholas Taneff, 279 Summit Avenue: Mr. Taneff asked about the access road behind the new Lowe's building. He stated that it should be maintained and free of snow for traffic access and safety. The Town Engineer stated that the road is located near the cell tower and goes right up to the Lowe's parking lot and is not being cleared of snow at this time. Supervisor Cudney stated that this is an issue for the Building Inspector and he will check on it.

Andrew Mulawka, 3131 Southwestern Boulevard: Mr. Mulawka stated the trash from the business next to him blows onto his property and he can no longer pick up all that trash. He stated he has no complaint with the businesses, but he does with all the garbage. In addition, there are railroad ties, tires, bottles, and rat poison in the gully further down Southwestern Boulevard. Mr. Mulawka feels that the speed limit is too high and is a danger on Southwestern Boulevard. He also addressed the problem of hunters shooting too close to the residents homes on Southwestern Boulevard and the Department of Environmental Conservation told him to contact the Town Board and maybe they can restrict the boundaries for that hunting area.

Supervisor Cudney stated that the Building Inspector could address the garbage problem and the Town could approach Lowe's about putting a snow fence up to hold back the garbage. Supervisor Cudney stated that she will follow up on the hunting problem with the New York State Department of Conservation boundaries.

Nicholas Taneff, 279 Summit Avenue: Mr. Taneff agreed with the idea of a type of fence to keep the garbage from blowing onto the properties of Southwestern Boulevard.

John Marlow, 47 Brookins Green Drive: Marlow asked the Town Board about the Zoning Board of Appeals granting 8 out of 10 actions which dealt with the exceeding the maximum lot coverage in the Birdsong Development.

Supervisor Cudney stated that the Town Board sets the regulations for the Town, but the Zoning Board of Appeals can grant relief from those regulations.

The Town Attorney explained that the Zoning Board of Appeals is an independent entity in the Town of Orchard Park under the Town Municipal Law. The members are appointed by the Town Board, but not controlled by the Town Board. The Zoning Board of Appeals can grant variances or hear appeals and the only way these decisions can be reversed is through a lawsuit in State Supreme Court.

Councilman Kaczor stated that the Zoning Board of Appeals takes each case individually and suggested that Mr. Marlow read the minutes to the action he is referring to when they become available.

Mr. Marlow asked about the status of the Comprehensive Master Plan. Councilwoman Ackerman stated that the draft is completely written and will be presented at the next Town Board work session. She explained that the Comprehensive Plan is a guideline for the goals and objectives of the Town. It is a document that will help to uphold the Town's decisions on future challenges and situations. The intention of the Comprehensive Plan is not to specifically explain any action taken by the Town, but to have a general structure to follow that will evolve, develop and give foundation to the plans in the future to help protect the residents of Orchard Park.

Mr. Marlow asked about Quaker Crossing Phase II proposed rezoning request from I-1 to B-1. He is concerned about the changes in all of the Industrial Property in the Town.

Councilwoman Ackerman stated that the Town wants a mix of zoning and is not trying to get rid of industrial zoning. She stated business zoning and commercial zoning bring in good companies and tax dollars just like industrial zoning.

Mr. Marlow suggested that instead of rezoning for the sake of the new business, Ashley Furniture, perhaps it could be located in one of the vacant buildings in our Town. He wondered why it wasn't included in Phase I of Quaker Crossing.

Councilwoman Ackerman explained that some of the vacant buildings in the community are in the process of being developed. The Ashley Furniture project wasn't available when the first part of Quaker Crossing was built.

The last issue Mr. Marlow asked about was Assessments and the Town Assessor. He wanted to know if the Town Board would have property reassessments on a more regular basis in the future and not wait for 14 years as in the last reassessment. He feels that the Town Board should have supported the Former Town Assessor, Linda Yancey, in performing the equity update. He stated the Town Board should assume responsibility instead of putting it upon the Assessor. He questioned how much the taxpayers would pay as a result of the Assessor's early retirement.

Supervisor Cudney stated the Former Town Assessor, Linda Yancey, will receive her full salary until the 1st of October 2005.

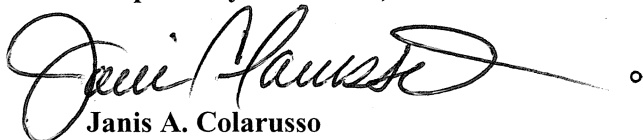
Mr. Marlow stated he would not want the Town to return to the old system of assessment before Linda Yancey was here.

Supervisor Cudney agreed to that and will demand that the new Assessor will do the equity updates. Mr. Marlow hopes that the Town Board supports the next Assessor.

Supervisor Cudney stated Father Gallagher from St. John Vianney's requested help from the Town about concerns with parking on Cherokee Drive on the weekend.

There being no further business from the floor, on motion by Supervisor Cudney, seconded by Councilman Kaczor, to wit: the meeting was adjourned at 8:23 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk