

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 February, 2013 at 7:00 PM, the meeting was called to order by Supervisor Colarusso 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
	Frederick Piasecki, Jr.	Highway Superintendent
	Andrew Geist	Building Inspector
	Mark Pacholec	Chief of Police
Absent:	Wayne Bieler	Town Engineer

Recreation Department 2012 Year in Review

The Recreation Department Director, Ed Leak, presented a video of the activities, staff and participants in the programs and special events throughout the year. He gave a synopsis of the revenues and participation in comparison to the previous year. He thanked the corporate sponsors and John Murphy for his assistance. He also introduced and thanked Kristin Santillo, his Assistant Director and all the Recreation staff for their invaluable service. Mr. Leak thanked the School District for use of the facilities, the four students who work with the Recreation Commission and the Town Board. Mr. Leak introduced members who were present from the Recreation Commission, Audrey Ramage, Chairperson and Gerard Cappelli and Joe Wales.

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 COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Regular Town Board Meeting minutes held on January 16, 2013 and the Executive Session Meetings held on January 2, 9, 16 & 31, 2013, 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.

Old Business - #1 Proposed Local Law for the Year 2013 Amendments regarding Snowplowing

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

WHEREAS, following due and timely notice a public hearing relating to the matter of Local Law #1-2013, regarding Amendments to Chapter 120-5.1: Snow Plow Ordinance was conducted on the 16th day of January 2013, at which all interested parties were given an opportunity to be heard.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby adopt the Proposed Local Law #1 for the Year 2013 which provides as follows:

§120-5.1. Snow Removal Prohibitions

Section 1:

- A. No person or employer or agent of such person shall actively themselves or passively allow someone else to plow, shovel, sweep, snow-blow or pile snow, ice or other such materials in or beyond the right-of-way of any street or public highway or cause such to be done so as to interfere with the safety and convenience of public travel or such as to constitute an obstruction of the sight of persons traveling by vehicle or by foot on public streets or sidewalks or on private driveways.
- B. No person or the employer or agent of such person shall actively themselves or passively allow someone else to plow, shovel, snow-blow or pile snow from a private or public driveway in such a manner as to deposit the same in the public roadway or on a public sidewalk
- C. Enforcement:
 - 1. Any infraction by a person, firm or corporation of any provision of this section shall be deemed an offense punishable by a fine not to exceed \$250 or imprisonment for a period not to exceed 15 days, or both.
 - 2. Any person who takes part in or assists in any violation of this section shall be subject to the penalties provided herein.
 - 3. This section shall be enforced by the members of the Town of Orchard Park Police Department and Code Enforcement Officers.

Section 2:

Effective date: This Local Law will take effect upon filing in the Office of the Secretary of State or from the date of its service as against a person served personally with a copy thereof.

The question of the adoption of the forgoing resolution was duly put on roll call:

Supervisor Colarusso	aye
Councilmember Kaczor	aye
Councilmember Majchrzak	aye

The resolution was duly adopted.

Old Business #2 Rezone “Orchard Heights Care Community” from R2 to R3 with RES

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

WHEREAS, following due and timely notice a public hearing relating to the matter of Amendment to the Zoning Ordinance of the Town of Orchard Park was conducted at the Municipal Center on the 16th day of January 2013, at which all interested parties were given an opportunity to be heard,, which amendment provides as follows:

To rezone “Orchard Heights Care Community” (an Assisted Living Facility) located at 5200 Chestnut Ridge Road, 16.13± acres (SBL184.08-1-1.1) on the west side of Chestnut Ridge Road from R-2 to R-3 (SR) with a Senior Residential Designation to allow the expansion of the site to construct new buildings for Senior Housing, as petitioned by the Hamister Group, and

WHEREAS, no recommendation from the Erie county department of Planning, pursuant to Section 239-m of the General Municipal Law was received and filed by the Town Board, and

WHEREAS, approval was received and filed with the Town Board, with stipulations and conditions.

NOW, THEREFORE, be it

RESOLVED, that the Zoning Ordinance and Zoning Map of the town of Orchard Park be and are hereby amended by rezoning “Orchard Heights Care Community” (an Assisted Living Facility) located at 5200 Chestnut Ridge Road, 16.13± acres (SBL184.08-1-1.1) on the west side of Chestnut Ridge Road from R-2 to R-3 (SR) with a Senior Residential Designation as follows:

All that tract or parcel of land situate in the Town of Orchard Park, County of Erie, State of New York, being part of Lot 13 Township 9 Range 7 of the Holland Land Company’s Survey, being more particularly described as follows:

Beginning at the northeast corner of lands of Orchard Heights Inc., as described in a deed recorded in the Erie County Clerk’s Office in Liber 10921 of Deeds at Page 552, thence southerly along the westerly line of Chestnut Ridge Road, being the westerly line of lands taken by the State of New York by appropriation recorded in the Erie County Clerk’s Office in Liber 6940 of Deeds at Page 25, a distance of 663.31 feet to a point; thence westerly at right angles to the previously described line, a distance of 5.00 feet to a point; thence southerly continuing along the westerly line of Chestnut Ridge Road, a distance of 232.10 feet to the southeast corner of said lands of Orchard Heights, Inc.; thence westerly along the south line of Orchard Heights, Inc., a distance of 500.00 feet to a southwest corner of said lands of Orchard Heights, Inc., thence northerly along a west line of said lands of Orchard Heights, Inc., a distance of 100.00 feet to a northeast corner of said lands of Orchard Heights, Inc., thence westerly along a south line of said lands of Orchard Heights, Inc., a distance of 373.01 feet to the southeast corner of lands of Essex Homes of WNY, Inc., as described in a deed recorded in the Erie County Clerk’s Office in Liber 11115 of Deeds at Page 6768, thence northerly along the east line of said lands of Essex Homes of WNY, Inc., a distance of 794.61 feet to a point in the north line of said lands of Orchard Heights Inc., thence easterly along the said north line of lands of Orchard Heights, Inc., a distance of 859.17 feet to the point or place of beginning, containing 19.96 Acres more or less.

RESOLVED, that this approval is granted with the following stipulations as recommended by the Planning Board:

1. Fees shall be paid in accordance with §144-70C, of the Town Code prior to publication of the Public Hearing Notice.
2. The recommendation is contingent upon the applicant completing the project as proposed on the preliminary development plans, and shall revert to its original Zoning Classification if the project is not completed per §144-67 of the Town Code.
3. This is an Unlisted SEQR action and a Full EAF, Parts One and Two were submitted with a Traffic Study, which can be considered to meet the requirements of Part 3, and as the Planning Board recommends, the Town Board declares itself the Lead Agency and issues a Negative Declaration.

RESOLVED, that the Town Clerk shall publish and post a copy of said amendment in accordance with §264 and 265 of Town Law and this ordinance shall take effect ten (10) days after publications and posting in accordance with Law.

The resolution was unanimously adopted.

New Business #1 Approve Orchard Park Garden Club request to hold 2013 Plant Sale

4) 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 approve the request of the Orchard Park Garden Club to hold their Annual Plant Sale for May 10th and 11th, 2013 at the Railroad Depot. A tent will be erected on Friday, May 10th and removed on Saturday, May 11th. A certificate of Liability Insurance is required.

The resolution was unanimously adopted.

New Business #2 Authorize Supervisor to sign Lease with the Historical Society

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

WHEREAS, an Agreement was made on the 1st day of January 2013 between the TOWN OF ORCHARD PARK” (Lessor) a municipal corporation having its principal place of business at S-4295 South Buffalo Street, Orchard Park, New York and THE HISTORICAL SOCIETY OF ORCHARD PARK (Lessee), having its principal place of business at S-4287 South Buffalo Street, Orchard Park, New York, to Lease the Jolls House, and

WHEREAS, under Section 64 under the Town Law, to finalize this matter on the Town’s side the following “Lease” must be approved subject to Permissive Referendum – the “Lease Agreement”.

NOW, THEREFORE, be it

RESOLVED, that the Supervisor of the Town of Orchard Park is hereby authorized and directed to sign the aforementioned Lease Agreement, and be it further

RESOLVED, that pursuant to §90 of the Town Law that within ten (10) days from the date of this resolution the Town Clerk shall post and publish a notice which shall set forth the date of adoption of the resolution, shall contain an abstract of such resolution concisely setting forth the purpose and effect thereof, shall specify that this resolution was accepted to a permissive referendum; and shall publish such notice in the official newspaper of the Town of Orchard Park, and that in addition thereto that the Town

Clerk shall post on the sign board of the Town of Orchard Park, a copy of such notice within ten (10) days after the date of the adoption of this resolution.

The resolution was unanimously adopted.

New Business #3 Authorize request to send K. Barnas & D. Shine to KVS Training Conference

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

RESOLVED, that the Town Board does hereby authorize to send Karen Barnas, Sr. Bookkeeper and Donna Shine, Sr. Payroll Clerk to attend the 2013 KVS Summer Training School and Conference from Monday, July 22 through Wednesday, July 24, 2013 at the Buffalo-Niagara Marriott Hotel in Amherst at the Town's expense. The cost to the Town would be \$475.00 per person.

The resolution was unanimously adopted.

New Business #4 Authorize 48 Month Period as Police Lt. to take Police Chief & Asst. Exam

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

RESOLVED, that the Town Board does hereby authorize a 48 month period as Police Lieutenant to be eligible to take the Police Chief and Assistant Police Chief examination.

The resolution was unanimously adopted.

New Business #5 Authorize Final Payment for Municipal Center & OP Library Fire Alarm

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

WHEREAS, the contract work for the Municipal Center and Library Fire Alarm Improvements Project has been completed. On March 1, 2012 a final inspection was conducted and all the work has been satisfactorily completed in accordance with the contract documents and specifications. The fire alarm system was 99% complete and functioning in December 2011, and

WHEREAS, the two-year maintenance bond in the amount of \$97,403.00 has been submitted along with all other warranties, replacement parts, equipment manuals, as-built drawings and necessary legal documents (Affidavit of Release of Liens, Affidavit of Subcontractor Payment). An Equipment Manual copy will be sent to the Municipal Center and Library Maintenance Departments.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize final payment and release of retention to Building Controls & Services, Inc., 4 Pequet Parkway, Tonawanda, New York 14150 for the Municipal Center and Library Fire Alarm Improvements Project in the amount of \$4,870.15, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Authorize Final Change Order Payment for Iroquois Dr. & Puritan Place

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

WHEREAS, the construction work on the Concrete Gutter & Driveway Apron for the above referenced project has been satisfactorily completed in accordance with Town standards and specifications, and

WHEREAS, a two-year maintenance bond in the amount of \$125,132.70 has been submitted along with the Affidavit of Release of Liens, Affidavit of Payment of Debts and Claims, and necessary legal documents, and

WHEREAS, the Over/Under sheet lists the final adjustments to the quantities for each bid item and shows there was a net decrease of \$8,200.30. This represents a decrease of 6.15% from the Bid Contract amount.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the final change order and authorize release of retention to E.J. Militello Concrete, Inc., P.O. Box 770, East Amherst, New York 14051 in the amount of \$6,256.64, and authorize the Town Clerk to release the performance bond in the amount of \$133,333.00 for the Iroquois Drive & Puritan Place Reconstruction, Concrete Gutter & Driveway Installations, Orchard Park Library Sidewalk & Curb Concrete Replacements, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Award Contract for Municipal Center HVAC Control System

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

WHEREAS, the Municipal Center energy management system is over 20 years old and parts are no longer available for needed repairs. The age of the Siemens system jeopardizes system operations and may lead to a catastrophic failure in the near future. The age of the current system is forcing the Town to spend an additional \$1,200.00+ per year over the cost of an agreement for an up to date system, and

WHEREAS, the service agreement will continue to increase over the next three years - \$3,578.00, \$3,685.00, \$3,795.00. A system service agreement for a newly updated system would cost \$2,340.00 and be fixed for the next three years. The current Siemens system has functioned very well over the designed life span of the system. The new fire alarm system is also a Siemens product, the design engineer has found Siemens to offer advanced, reliable and workable products at a reasonable cost, and

WHEREAS, the proposed scope of work is classified as system maintenance. The contractor will utilize existing parts that are still functioning and compatible with the updated controls. The main items of the upgrade are 1 SCU controller, 1 DPU controller, 2 TCU controllers, custom graphics & license for 1 APOGEE Insight Base server, automation hardware components, convert databases and programming to new field panel hardware, system start up and commissioning, all technician labor and a 1 year system warranty. Not included is the replacement of any failed end devices such valves, actuators, motors, relays and VFD's, and

WHEREAS, Proposals were solicited for the Orchard Park Municipal Center Energy Management System Upgrade during November /December 2012. Two companies responded and submitted bids for the complete upgrade of the existing Siemens energy management system. Siemens submitted one proposal (\$17,597.00) it is their system currently in the building and has been operating & maintaining it very well, over the last 20 years. The second company to submit a proposal is Gerster Trane (\$18,930.00); they propose to supply and install their Trane Tracer SC control system, and

WHEREAS, the low bidder, Siemens Industry seems to be the best option for the Town since they are familiar with the current system and the Municipal Center building devices.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Municipal Center Energy Management System Upgrade, to the lowest responsible bidder, Siemens Industry, Inc., Building Automation, 85 Northpointe Parkway, Amherst, NY 14228 in the amount of \$17,597.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Jacqueline Briggs – Ms. Briggs submitted 348 signed petitions to the Town Board in favor of acquisition of the Baker Road Administration Building for the Orchard Park Community Campus. She stated that there are seven senior groups with over 800 members and they have only heard from one so far. The Orchard Park Bee conducted two surveys with overwhelming votes for a new Senior Center.

Alice Seydel – Ms. Seydel is new to the area and is happy to call Orchard Park her home. She pointed out the obstacles of the Senior Center and why a new one is needed. She pointed out all the wonderful education, music, literary, arts, exercise and nutrition programs. She thanked the Senior Council and their efforts and hoped the Town Board would facilitate obtaining the Baker Road School for the seniors.

Tom Pieczynski – Mr. Pieczynski stated that Orchard Park has an opportunity to save taxpayers five to ten million dollars by acquiring the Baker Road School. He stated that the seniors are here to stay and are important and vital to the community. They have paid their dues and continue to do so. He asked why the Town Board is not involved with the School Board in evaluating proposals put forth in fairness to the taxpayers for the best result for the Town. He has contacted County and State Legislators along with the Village, and they have agreed with the proposal and are trying to make it work. He asked the Town Board to please become involved.

Mary Ann Martin – Ms. Martin stated that she enjoys the activities and new learning experiences that are offered. She talked about the building and its shortcomings. Ms. Martin stated that the seniors need this for their wellbeing.

Alfred Szymanski – Mr. Szymanski stated that the 50 years and older population is continuing to grow and retirement is at a faster rate than in previous years. The Town needs to have a proactive approach to procuring the Baker Road School. He feels the Town should make a greater effort in handling this situation.

Evelyn King – Ms. King feels lucky to live in Orchard Park and feels that the seniors need to have a place to get together. She stated that the Orchard Park Senior Center is small and dangerous and should have one that is adequate as in neighboring towns.

Al Groth – Mr. Groth stated that the seniors need a larger Senior Center for the growing senior population. He asked the Town Board to help obtain the Baker Road School so that the citizens of Orchard Park have a place to call Community Campus.

Jane Ann Reukauf – Ms. Reukauf is a lifelong resident and encouraged the Town Board to negotiate with the School District to acquire the Baker Road School Building and surrounding property. As an AARP Volunteer Instructor for the Drivers Safety Program, she has had the opportunity to work at many Community and Senior Centers in Western New York and Orchard Park was the worst. The structure was built for another purpose and is not conducive to people with handicaps or age related conditions. The Baker Road facility would allow for community involvement of all ages. With potential future grants and other funding, the surrounding land could possibly be used for senior housing or an indoor pool. Ms. Reukauf asked the Town Board to act now on behalf of all the community.

Frank Ballesteros – Mr. Ballesteros is the Commander of the American Legion Post #567 and stated that they support the seniors’ effort and would ask the Town Board take it into consideration.

11) 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 following budget transfer:

Courts:	Reason:	Court Reporter Fee for Jury Trial January 2013
\$90.00	From: PS.1110.419	Public Safety – Other Expenses
	To: PS.1110.449	Public Safety – Court Reporter

The resolution was unanimously adopted.

Supervisor Colarusso – She stated that she has supported the seniors for the last three years. She stated that she would attend the School Board Meeting on Tuesday.

Councilmember Kaczor – He stated that he is in favor of anything that will support the seniors and has been kept up to date by former Councilmember Dave Buyer, who is active with the seniors. There are financial issues that have to be addressed. Councilmember Kaczor has spoken with the President of the School Board and an appraisal on the property is in the process. It is highly unlikely that the School Board can legally donate it. The School is a government entity and it may be sold through a bid process. He stated that whatever happens with the School, the Town Board is concerned and prepared to move forward to meet the needs of the current and future senior citizens. Councilmember Kaczor reported on the grant received from New York State for the study of historical homes. The Orchard Park Historical Preservation Committee will have a presentation in March. He stated that registration for the Recreation Department Summer Camp has begun and employment opportunities are available.

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

WHEREAS, we have received a proposal from NYSEG for the connection of eight (8) Standard street light fixtures, four (4) on Airmont Drive, three on Conway Circle and one (1) on Golden Crescent Way in the Pleasant Acres West Subdivision. At present, there is one (1) single family home occupied in this subdivision with another five (5) currently under construction of the 24 subplot Part 1 Subdivision, and

WHEREAS, the 70-watt H.P.S. luminaires, which are owned by the Town, were installed with the installation of standard street light poles under PIP # 2010-01. NYSEG will maintain the bulbs, and the electric eye of the luminaires. The supply of electricity is not included in the price as the Town purchases their electricity from another supplier which is estimated to be \$42.03/ea. for an annual cost of \$336.24 (8). The proposal is for a total of eight (8) luminaries to be connected at an annual charge of \$23.13 each, totaling annually \$185.09. NYSEG will provide new estimate sheets as new rates become available.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize NYSEG to connect a total of eight (8) 70-watt high-pressure sodium Standard light fixtures in the Pleasant Acres West Subdivision at an annual increased cost of \$185.09 to the Consolidated Light District in accordance with the NYSEG proposal. Energy will be an additional (+/- \$336.24/yr.), as recommended by the Town Engineer.

The resolution was unanimously adopted.

Councilmember Majchrzak – He stated that he is in support of the seniors needs and for their patience from the Town Board as they determine the legal issues in obtaining the Baker Road School. He reported on the progress of the Capital Improvement Projects: Bussendorfer Road drainage, Baker Road Reconstruction, Forest Avenue Bridge and Timberlake Drive. The Town Board has sent a proposal for the Blue Collar Union to the Town Accountant and they will meet with them later in the month. He commented on the success of *Winterfest* held at Chestnut Ridge

Police Chief Pacholec warned the public of recent identity thefts in the area and suggested that residents monitor their credit and debit card transactions. He also stated that there have been several car thefts reported and suggested that citizens take their valuables inside and lock their vehicles.

13) 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 #3 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$85,274.02
Public Safety Fund	\$23,862.19
Part Town Fund	\$2,789.61
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$47,283.18
Special Districts	\$130,800.42
Trust & Agency	\$12,629.20
Capital Fund	\$11,156.58

The resolution was unanimously adopted.

20) 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 receive and file the following Report: Building Inspector's Monthly Report for the month of January 2013.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Colarusso seconded by Councilmember Kaczor, to wit: the meeting adjourned at 8:25pm (local time).

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carol R. Hutton".

**Carol R. Hutton
Town Clerk**