

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 16th 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."*

PUBLIC HEARING

At 7:00 PM (local time) Supervisor Cudney called for a Public Hearing to hear all interested parties regarding the proposed Conservation Easements for the following residents:

- George & Marie Preshoff, 5721 Seufert Road. Requesting a perpetual conservation easement on 6 acres. The Conservation Board, 1/4/05, recommends the easement.
- Jack King & Laurice Cushion, 6856 Scherff Road. Requesting a perpetual conservation easement on 9.3 acres. The Conservation Board, 1/4/05, recommends the easement.
- Boston Valley Pottery, Inc., vacant land, east side of South Abbott Road. Requesting a perpetual conservation easement on 42.8 acres. The Conservation Board, 1/4/05, recommends the easement with the understanding that the amount of land included in the easement will be 41 acres, which excludes the existing gravel pit in the front of the parcel.

And, to authorize the Town Assessor to determine the valuation of the properties, taking into account the limitation on the future use of the land, imposed by such Conservation Easements.

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.

The Supervisor asked if there was anyone in the audience who would like to speak for or against the applications for the Conservation Easement.

Comments from the floor: No one came forward to speak.

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

RESOLVED, that the Public Hearing in the matter of the Proposed Conservation Easements for George & Marie Preshoff, 5721 Seufert Road, Jack King & Laurice Cushion, 6856 Scherff Road and Boston Valley Pottery, Inc., vacant land, east side of South Abbott Road, is hereby closed at 7:10 PM.

The resolution was unanimously adopted.

2) 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 accept the following Conservation Easements as petitioned by: George & Marie Preshoff, 5721 Seufert Road, Jack King & Laurice Cushion, 6856 Scherff Road and Boston Valley Pottery, Inc., vacant land, east side of South Abbott Road, as recommended by the Conservation Board, and be it further

RESOLVED, the Town Assessor is to determine the valuation of the properties, taking into account the limitation on the future use of the land, imposed by such Conservation Easements.

The resolution was unanimously adopted.

PUBLIC HEARING

At 7:11 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against a Proposed Amendment to the Zoning Ordinance of the Town of Orchard Park to rezone 13.91 acres of vacant land, from R-3 to S-R, to construct an affordable senior housing facility, as petitioned by CRS Property Services Co., LLC. This land is on the north side of Milestrip Road, east of Provincetown Lane, which is described as follows:

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Orchard Park, County of Erie and State of New York more particularly described as follows:

BEGINNING at the northeasterly corner of lands now or formerly owned by Sean & Michele Overton (Tax Map #153.170-01-011.11), said point being 600 feet northerly of the centerline of Milestrip Road:

Thence, South 88°59'20" West, a distance of 163.86 feet to a point; Thence, North 05°19'22" East, along the centerline of the Northwest Branch of Smokes Creek, a distance of 43.73 feet; Thence, North 39°52'13" West, along the centerline of the Northwest Branch of Smokes Creek, a distance of 164.06 feet to a point;

The following courses through the lands now or formerly owned by Reichard Bros., Inc. (Tax Map #153.170-01-001): Thence, North 50°07'47" East, a distance of 35.00 feet to a point; Thence, North 38°53'51" West, a distance of 100.00 feet to a point; Thence, North 53°17'14" West, a distance of 71.62 feet to a point; Thence, North 87°03'24" West, a distance of 230.00 feet to a point; Thence, South 74°26'41" West, a distance of 199.66 feet to a point; Thence, South 01°13'05" East, a distance of 105.00 feet to a point; Thence, South 88°46'55" West, a distance of 130.00 feet to a point; Thence, North 01°13'05" West, along a line 100 feet easterly and parallel to the westerly property line of lands now or formerly owned by said Reichard Bros., Inc., a distance of 593.91 feet to a point; Thence, South 88°55'24" East, along the northerly line of lands now or formerly owned by said Reichard Bros., Inc., a distance of 34.21 feet to a point; thence

The following courses along the centerline of Smokes Creek: Thence, South 48°25'55" East, a distance of 30.88 feet to a point; Thence, South 80°36'51" East, a distance of 54.20 feet to a point; Thence, South 54°11'30" East, a distance of 63.49 feet to a point; Thence, South 39°20'23" East, a distance of 101.67 feet to a point; Thence, South

27°01'14" East, a distance of 75.99 feet to a point; Thence, South 44°07'39" East, a distance of 38.25 feet to a point; Thence, South 77°45'25" East, a distance of 21.22 feet to a point; Thence, North 71°55'30" East, a distance of 92.99 feet to a point; Thence, South 76°58'58" East, a distance of 81.03 feet to a point; Thence North 77°07'16" East, a distance of 20.85 feet to a point; Thence, North 40°02'00" East, a distance of 46.03 feet to a point; Thence, North 29°42'38" East, a distance of 110.09 feet to a point; Thence, North 24°43'43" East, a distance of 96.47 feet to a point; Thence, South 88°55'24" East, along the northerly line of lands now or formerly owned by Reichard Bros., Inc., a distance of 237.00 feet to a point; thence,

The following courses along the centerline of Smokes Creek: Thence, South 24°12'04" East, a distance of 32.23 feet to a point; Thence, South 02°37'12" East, a distance of 95.59 feet to a point; Thence, South 02°57'04" East, a distance of 67.83 feet to a point; Thence, South 10°21'09" East, a distance of 55.24 feet to a point; Thence, South 18°10'44" East, a distance of 52.96 feet to a point; Thence, South 31°04'11" East, a distance of 61.48 feet to a point; Thence, North 78°22'41" East, a distance of 91.74 feet to a point; Thence, North 55°58'09" East, a distance of 101.08 feet to a point; Thence, North 63°08'48" East, a distance of 71.93 feet to a point; Thence, North 77°38'25" East, a distance of 27.33 feet to a point; Thence, South 88°58'15" East, a distance of 75.95 feet to a point; Thence, South 00°41'30" East, through the lands now or formerly owned by Reichard Bros., Inc., (Tax Map #153.170-01-001), a distance of 227.60 feet to a point; Thence, North 89°18'30" East, through the lands now or formerly owned by Reichard Bros., Inc., (Tax Map #153.170-01-001), a distance of 100.00 feet to a point; Thence, South 00°41'30" East, along the easterly line of lands now or formerly owned by Reichard Bros., Inc., (Tax Map #153.170-01-001), a distance of 310.00 feet to a point; Thence, South 88°59'20" West, through the lands now or formerly owned by Reichard Bros., Inc., (Tax Map #153.170-01-001), a distance of 462.59 feet to a point, Thence, North 00°57'33" West, along the westerly line of lands now or formerly owned by Reichard Bros., Inc., (Tax Map #153.170-01-001), a distance of 44.63 feet to the POINT AND PLACE OF BEGINNING.

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 stated that she wanted to read into the record the following residents letters names that have been received by the Town Board regarding this project:

- **Andolina, Pam – 33 Royalcrest Drive: opposed**
- **Darmstedter, Dave – 47 Boland Drive, Lackawanna: opposed**
- **Diller, Burton F. – 6713 Milestrip Road: opposed**
- **Domon, Bernice – 6829 Milestrip Road: opposed**
- **Kamm, Mr. & Mrs. Michael G. – 5 Moreland Drive: opposed**
- **Krantz, Brian & Lori Peterson-Krantz – 6645 Milestrip Road: opposed**
- **Kupinski, Beverly – 6740 Milestrip Road: opposed**
- **Kupinski, Mrs. Zita – 6740 Milestrip Road: opposed**
- **Little, Barbara B. – 37 Diller Drive: opposed**
- **Little, Jonathan – 43 Woodhaven Road: opposed**
- **Moffitt, Donald & Judith – 6760 Milestrip Road: opposed**
- **Munich, Steve – 3424 Alsace Place, Hamburg: opposed**
- **Overton, Michelle – 6652 Milestrip Road: opposed**
- **Overton, Sean – 6652 Milestrip Road: opposed**
- **Rizzo, Caroline & Joseph – 25 Ferndale Drive: opposed**
- **Rizzo, Patrick – 6647 Gartman Road: opposed**
- **Siwec, Susan – 6745 Milestrip Road: opposed**
- **Sommers, David – 6640 Milestrip Road: opposed**
- **Sommers, Kirsten – 6640 Milestrip Road: opposed**
- **Stanek, Peter & Janis – 6750 Milestrip Road: opposed**
- **Sweet, Jim and Pauline – 11 Hart Place: opposed**
- **Sweet, Paul & Louise – 9 Edgar Circle: opposed**

In addition, the Town Board has received communication from Sean Overton, 6652 Milestrip Road, and Jack Kupinski, 6740 Milestrip Road, stating that they believe that the Town has received enough written protest to trigger a "Supermajority Vote" specified in Town Law 265(1).

At this time Supervisor Cudney asked if there was anyone from the audience that would like to be heard.

Comments from the floor:

Sean Hopkins, Attorney for the project's sponsor, CRS Properties, (CRS President John Cerio and Douglas Brackett, the project engineer were also present): Mr. Hopkins outlined the proposed senior housing and talked about future phasing in of single family homes.

Barbara Little - 37 Diller Drive: She presented the Town Board with signed petitions opposing the project. The petition contained over 200 names from all over Orchard Park. She stated many of the people were seniors.

Zita Kupinski – 6740 Milestrip Road: opposed

Beverly Kupinski – 6740 Milestrip Road: opposed

Bernice Doman – 6829 Milestrip Road: opposed

Marty Januszkiewicz – 7207 Ward Road: proponent

Burt Diller – 6713 Milestrip Road: opposed

Jason Januszkiewicz – 7207 Ward Road: proponent

John Addio – 6735 Milestrip Road: opposed

Bill Scott – 35 Jolls Lane: proponent

Jack Kupinski – 6740 Milestrip Road: opposed

Janis Stanek – 6750 Milestrip Road: opposed

Jackelyn Kupinski – 6740 Milestrip Road: opposed

Sean Overton – 6652 Milestrip Road: opposed

Kirsten Sommers – 6640 Milestrip Road: opposed

Gunner Trontelone – 44 Argyle (Village Planning Board member): proponent

The residents who wrote letters and appeared before the Town Board regarding CRS Properties had the following concerns:

- The site is a densely wooded uneven terrain, with two streams and steep cliffs, that is not suitable, or appropriate, for senior citizens.
- This site is not close to any conveniences that seniors need, such as bus routes, walk ways, etc.
- There is already too much development in this area (and in the Town).
- The site is located in a 100-year flood zone, and flooding in this area is very common.
- Six wetland areas on the site.
- Traffic issues.
- This application does not fit with in the Town Zoning guidelines for SR zone.
- Environment impacts are extensive: storm water, stream crossing, flood impact, wetlands and soil in area.
- The Needs Assessment and the EAF Forms filed by the Petitioner contained outright misrepresentations, omissions and inconsistencies.
- The over all size of the proposed structure.
- There is only one access road for the many units, and proposed future single-family homes.
- Former construction jobs of the applicant – questionable quality.
- There is a need for affordable Senior Housing in this area.

Several people stated that they were upset the way the Planning Board meetings are conducted, as they could not hear everything that was being stated at the meetings. It was suggested that the Planning Board could get a portable microphone system. Councilman Jemiolo suggested using the Town Board meeting room, but when reviewing maps and projects, this room may not be suitable.

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

RESOLVED, that the Public Hearing in the matter of the Proposed Amendment to the Zoning Ordinance of the Town of Orchard Park to rezone 13.91 acres of vacant land, north side of Milestrip Road, east of Provincetown Lane, from R-3 to S-R, to construct an affordable senior housing facility, as petitioned by CRS Property Services Co., LLC., is hereby closed at 8:35 PM.

Supervisor Cudney stated that the Town Board would not be acting on this petition tonight, and it will be addressed at the next meeting.

The resolution was unanimously adopted.

PUBLIC HEARING

At 8:36 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against a Proposed Amendment to the Zoning Ordinance of the Town of Orchard Park to rezone 16.04 acres of land, bounded by Amelia Drive, Amanda Drive, North Benzing and Milestrip Road from I-1 to B-1, to construct a plaza for Quaker Crossing, Phase II, as petitioned by Quaker Crossing, LLC.

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 28, Township 10, Range 7 of the Buffalo Creek Reservation bounded and described as follows:

Beginning at the point of intersection of the southerly boundary line of Amanda Lane (Amanda Lane being 80.0 feet wide) with the westerly boundary line of Benzing Road (Benzing Road being 49.5 feet wide);

Thence, Southerly, along the westerly boundary line of Benzing Road, a distance of 827.5 feet more or less to the northerly boundary line of Milestrip Road being the northerly line of lands acquired by the State of New York, Parcel No. 760; Thence, Westerly, along the northerly boundary line of Milestrip Road, being the northerly line of Parcel 760, a distance of 416.9 feet more or less to an angle therein; Thence, Westerly, continuing along the northerly line of Milestrip Road, being the northerly line of Parcel No. 760, a distance of 402.1 feet more or less to the easterly line of lands of Niagara Mohawk Power Corporation; Thence, Northerly, along the easterly line of Niagara Mohawk Power Corporation lands, a distance of 867.0 feet more or less to a point on the southerly boundary line of Amanda Lane; Thence, Easterly, along the southerly boundary line of Amanda Lane, a distance of 821.6 feet more or less to the point or place of beginning containing 16.04 acres be the same more or less.

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.

Supervisor Cudney stated that the Town Board has received 3 communications regarding this project and she would like them entered into the record:

Debra K. Becerra, Attorney representing the Property Owners: She outlined the unsuccessful attempts to owners have had to sell this property as industrial. She stated they now wish to sell it as retail property if it can be rezoned.

Memo from Planning Coordinator, Sarah des Jardins: Stating Cheryl Castellano, who lives at 3451 North Benzing Road, which would be across the street from the proposed retail plaza. She asks that the Boards be aware that she lives there with her husband and six children, and requested that the Boards work to not have this plaza adversely affect her and her family.

Memo from Planning Coordinator, Sarah des Jardins: Regarding SEQR regulations, stating that this project would be considered a Type 1 action, and this may require the preparation of an Environmental Impact Statement.

At this time, Supervisor Cudney asked if there was anyone from the audience that would like to be heard:

Comments from the floor:

Bob Walsh, Attorney for Quaker Crossing: He discussed the proposed project.

Steven Kane, Joint Petitioner with Gerald Buchheit: He stated that he plans to make this very attractive project, which will be pleasing to the neighboring areas.

Councilman Mills stated that in order for him to vote for this rezoning, he does not want to see any access routes onto Benzing Rd. or Amanda Lane.

Nicholas Taneff, 279 Summit Avenue: He is for the rezoning as long as there is proper landscaping & buffering. Mr. Taneff also stated that he feels all of Milestrip Road should be rezoned for business.

Burton Farquhar, 6100 Newton: Indifferent to this rezoning, but feels bad that Orchard Park is turning into a shopping mall.

James Zelasco, 3016 Angle Road: Mr. Zelasco works for Ashley Homestores and feels they would be a good addition to our area.

Eric Wangler, 3121 North Benzing Road: Mr. Wangler owns a business on North Benzing Road, and is worried about the traffic issue

Chris Clark, 105 Lindsey Lane: Mr. Clark also works for Ashley Homestores, and feels that this is a good company and Orchard Park should be proud to have this store.

Cheryl Castellano, 3451 North Benzing: Does not want the plaza to adversely affect her family.

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

RESOLVED, that the Public Hearing in the matter of the Proposed Amendment to the Zoning Ordinance of the Town of Orchard Park, to rezone 16.04 acres of land, bounded by Amelia Drive, Amanda Drive, North Benzing and Milestrip Road from I-1 to B-1, to construct a plaza for Quaker Crossing, Phase II, as petitioned by Quaker Crossing, LLC., is hereby closed at 8:56PM.

Supervisor Cudney stated that the Town Board would not be acting on this tonight. The Town Board still needs to make the SEQR determination, and review the comments from the Planning Board.

The resolution was unanimously adopted.

Old Business #1 Dominic Corto Requesting a Change-In-Use From Retail to Spa

5) 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 from Dominic Corto, 4063-4065 North Buffalo Road for a Change-In-Use from retail to a spa. The Planning Board, 2/9/05, recommends approval of this request. This is an unlisted SEQR Action and a Negative Declaration is declared.

The resolution was unanimously adopted.

Old Business #2 Old Orchard Woodlands Inc. Requesting Open Area Development

This agenda item was Tabled by the Town Board: Old Orchard Woodlands, Inc., vacant land East Side of North Buffalo Road, North of 3605 North Buffalo Road, Zoned B-3 and R-2, Requesting open area development, pursuant to Town Law Section 280-A, for a proposed subdivision.

The Town Board has questions regarding the private infrastructure on this type of development, and will wait until the Public Hearing before taking any action.

Old Business #3 Old Orchard Woodlands Requesting Rezoning from B-3 to R-2 for a Subdivision

6) 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 schedule a Public Hearing for Wednesday, March 16, 2005 @ 7:00 PM (local time) for Old Orchard Woodlands, Inc., vacant land East Side of North Buffalo Road, North of 3605 North Buffalo Road, Zoned B-3 & R-2. The petitioner is requesting to rezone the 1.4 acres of land from B-3 to R-2, in order to construct an 18-lot subdivision.

The resolution was unanimously adopted.

New Business #1 Proceed with Dedication for Barrington Heights Subdivision, Part 1, Phase 3

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

WHEREAS, on February 4, 2005, a final inspection of the public improvements installed under PIP #2004-05 was conducted in the Barrington Heights Subdivision, Part 1, Phase 3. This project included the construction of the final portion of Graystone Lane, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications, with the exception of a damaged light standard, cracked/chipped concrete gutters, and grading and seeding areas of the ROW and rear yard drainage swales. The Town is in receipt of \$1,500, \$1,500 and \$6,500 cash securities for replacing the light standard, concrete gutter repairs, and grading and seeding, respectively, which will be held in escrow until that work has been satisfactorily completed, and

WHEREAS, a two-year maintenance bond in the amount of \$340,000 has been submitted along with all other necessary documents, and

WHEREAS, there is a possibility there may be a property dispute involving sublots 13 through 22, and subplot 24. Sublots 14 through 19 could possibly have lot square footage issues. The two involved property surveyors disagree on the sublots back lot line location, + 4-6 feet difference. The town Attorney has stated this is a private matter involving the sublots only, and dedication could take place.

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 Barrington Heights Subdivision, Part I, Phase III constructed under PIP #2004-05, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$68,000.00.

The resolution was unanimously adopted.

New Business #2 Proceed with Dedication for Eagle Heights Subdivision, Part 8, Phase 1

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

WHEREAS, on February 10, 2005, a final inspection of the public improvements installed under PIP #2004-01, was conducted in the Eagle Heights Subdivision, Part 8, Phase 1. This project included the construction of an extension of Redbrick Road, and Highbrook Court cul-de-sac, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the boulder retaining walls and associated infrastructure adjacent to the entrance of Redbrick Road, repair/replacement of damaged concrete gutters, grading and seeding areas, and site erosion control maintenance work. The Town is in receipt of \$60,000, \$1,000, \$1,000 and \$1,000 cash securities for installation of the boulder retaining walls, concrete gutter repairs, grading and seeding, and erosion control respectively, which will be held in escrow until that work has been satisfactorily completed, and

WHEREAS, easements have been submitted and signed by the two residents located on each side of the Redbrick Road entrance for the boulder retaining wall. The easement will allow the developer to complete the wall construction in the spring, or in the event the developer fails to, allows the Town to complete the work, and

WHEREAS, an Escrow Agreement with the Town covering the installation of the boulder retaining walls, and associated infrastructure adjacent to the entrance of Redbrick Road, has been submitted, and signed by Marrano/Marc Equity Corp. All documents have been reviewed by the Town Attorney and are acceptable for the Town Supervisor to sign, and

WHEREAS, the escrow funds shall be placed in an interest bearing account at Bank of America, and the interest shall be credited to Marrano/Marc Equity Corporation ID #, and

WHEREAS, a two-year maintenance bond in the amount of \$315,000 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 Eagle Heights Subdivision, Part 8, Phase 1, constructed under PIP #2004-01, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$63,000, and be it further

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Escrow Agreement with Marrano/Marc Equity Corporation with the funds to be placed in an interest bearing account at Bank of America.

The resolution was unanimously adopted.

New Business #3 Stops Signs to be Posted on Redbrick Road @ Knob Hill Rd. & Highbrook Court

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, 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 a **"Stop"** sign on Redbrick Road at the intersection of Knob Hill Road, and the posting of a **"Stop"** sign on Highbrook Court at the intersection of Redbrick Road be erected immediately, 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 #4 Approve Change Order #5 w/Kandey Company-Comprehensive Water System

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

WHEREAS, the Engineering Department is requesting your approval of a Change Order to the contract with Kandey Company, Inc. for the Comprehensive Water System Improvements Project, Part 2, in the amount of an increase of \$3,386.67. If approved, this would increase the total contract amount to \$1,425,272.06, representing an increase of 0.24%, and

WHEREAS, the Change Order consists of charges by the Erie County Water Authority for water shutdown during the course of construction that occurred during off-hours. These shutdowns occurred at night, or on holidays, to minimize disruption of service to schools, colleges, and local businesses,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #5 to the contract with Kandey Company, Inc., for the Comprehensive Water System Improvement Project – Part 2, in the amount of an increase of \$3,386.67.

The resolution was unanimously adopted.

New Business #5 Approve Change Order #2 w/Janik Paving-Comprehensive Water System

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

WHEREAS, the Engineering Department is requesting your approval of a Change Order to the contract with Janik Paving & Construction, Inc., for the Comprehensive Water System Improvements Project, Part 1, in the amount of an increase of \$3,947.40. If approved, this would increase the total contract amount to \$2,549,078.14, representing an increase of 0.16%, and

WHEREAS, the Change Order is requested to perform additional work under their contract for the Comprehensive Water System Improvement Project, Part 1, by extending bid Item 550.99 – Demolition, Removal, and Disposal of Concrete Vaults, Pits, and Associated piping under the Lump Sum bid per each. The work involves the abandonment of an additional meter pit on Minden Drive at Lake Avenue, for which the Sewer and Water Department has completed test holes and determined that the pit was not properly abandoned 30 plus years ago, and the subdivision is not supplied by two sources per record plans and the Malcolm Pirnie Report, and

WHEREAS, the proper abandonment and reconnection of the former meter pit at Minden Drive will provide the entire subdivision with two sources of supply. After the Minden reconnection is made, the abandonment of the meter pit at Lakewood Drive can be performed without shutting down the entire Honeycrest Subdivision areas.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #2 to the contract with Janik Paving & Construction, Inc., for the Comprehensive Water System Improvement Project – Part 1, in the amount of an increase of \$3,947.40.

The resolution was unanimously adopted.

New Business #6 Authorize the Supervisor to sign Agreement w/Peter J. Smith & Company

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

WHEREAS, the consultant selection process for the Brush Mountain Park Master Plan has been completed. Five professional firms responded to the Town's Request for Qualifications, and after review of the qualifications submitted, the consultant selection committee decided to interview three firms, and

WHEREAS, the selection committee, which consisted of Councilman Stanley Jemiolo, Jr., Councilman David Kaczor, Town Engineer Wayne Bieler, Recreation Director Ed Leak, and Recreation Commission Committee Members John Murphy and Audrey Ramage, who conducted interviews with the prospective firms on December 16, 2004.

WHEREAS, the committee selected the professional landscape architecture and design firm, Peter J. Smith & Company, Inc., to be the Town's consultant for the Brush Mountain Park Master Plan Project, and

WHEREAS, the Town Engineer has met with the representatives of that firm to review contract language, refine the scope of services and negotiate an appropriate fee structure only because it is not possible to determine the need for additional services in advance, an optional service element is also included in the contract. After finalizing the work scope involving possible wetland mitigation, the consultant firm agreed upon fee could be included, and

WHEREAS, the Town Engineer believes that the proposed scope of services and agreement with Peter J. Smith & Company, Inc., is satisfactory and will accomplish the goals of the project that were set forth by the Town. The work has been organized into four major elements, each having its own lump sum fee. Those fees are listed as follows: Site Analysis \$24,830; Feasibility Study \$16,000; Schematic Design \$25,760; and Master Plan \$32,840. Additional charges for Mitigation Design & Wetland Permitting services, if needed, will be provided by the consultant for an additional \$7,200, and

WHEREAS, the Brush Mountain Park Master Plan, as set forth by the Town, consists of beginning anew - conducting site investigations, delineating wetlands, completing field surveys, establishing a general development plan, performing studies on drainage, grading and utilities, and attending public meetings with Town officials and recreational organizations to solicit input before finalizing the Master Plan. The Master Plan will include the locations of roadways, walkways, parking areas, recreation facilities, structures, landscaping and utilities. There is presently \$130,456.31, plus interest, allocated under Capital Project H-51, California Road Park Master Plan for this project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Peter J. Smith & Company Inc., 1896 Niagara Street, Buffalo New York 14207, to provide professional services for the Brush Mountain Park Master Plan Project in an amount no to exceed \$106,630.00.

The resolution was unanimously adopted.

New Business #7 Schedule a Public Hearing for Residents Seeking Conservation Easements

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 Schedule a Public Hearing for March 16, 2005 at 7:00 PM for the following residents requesting Conservation Easements: Tony Hughes & Carole Owens, 5895 Colé Road. Requesting a perpetual easement on 6.37 acres of land. The Conservation Board, 2/15/05, agrees with the easement; Raymond Williams, 6806 Cole Road. Requesting a 15-year easement on 13.37 acres of land. The Conservation Board, 2/1/05, agrees with the easement; Frank & Rose Newton, 6463 Bunting Road. Requesting a 15-year easement on 123 acres (currently has a 10-year easement on the acreage). The Conservation Board, 2/1/05, agrees with the change from 10 years to 15 years; and James & Toni Cudney, 5991 Scherff Road. Requesting a 50-year easement on 26.24 acres. The Conservation Board, 2/15/05, agrees with the easement.

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

The resolution was unanimously adopted.

New Business #8 Hunters Hope Holding the Southtowns Family Fun Race

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

RESOLVED, that the Town Board does hereby approve of the request from Hunters Hope to hold the Southtowns Family Fun Race, Saturday, September 24, 2005, using the same sanctioned route as in the past. The post race activities will be held at the Train Depot.

The resolution was unanimously adopted.

New Business #9 OP Central School District Holding a Special District Vote, March 22, 2005

15) 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 approve the request from the Orchard Park Central School District for twelve (12) Town of Orchard Park voting machines for their Special District Vote on Tuesday, March 22, 2005, at the Orchard Park Middle School from 7:00 AM to 9:00 PM, and be it further

RESOLVED, that the Town Board does hereby authorize the following stipulation: That the Orchard Park Central School District return all twelve (12) voting machines to the Town of Orchard as received and all necessary repairs to the voting machines be the sole responsibility of the School District.

The resolution was unanimously adopted.

New Business #10 Orchard Park Garden Club Request to erect a tent for Plant Sale

16) 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 authorize the Orchard Park Garden Club to erect a tent on Town property, adjacent to the Railroad Depot, May 13 & 14, 2005, for their Annual Plant Sale, and a Certificate of Liability will be sent to the Town.

The resolution was unanimously adopted.

New Business #11 Authorize Aqua Tech Environmental to Apply for a NYSDEC Permit

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

WHEREAS, in 1999 Aqua Tech Environmental, Inc. entered into a contract with the Town of Orchard Park to manage the water quality in Green Lake, including the treatment of weed and algae growth in the Lake with aquatic herbicides, and

WHEREAS, Aqua Tech Environmental has applied to the New York State Department of Environmental Conservation (NYSDEC) for the Town of Orchard Park for Green Lake each year thereafter for the necessary permits, as required, and

WHEREAS, again in 2005, the Town of Orchard Park desires to have the water quality maintained in Green Lake by contracting with Aqua Tech Environmental, Inc., to manage the Green Lake as needed.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of Orchard Park does hereby authorize Aqua Tech Environmental, Inc. to apply for the needed permits with the NYSDEC, and the Supervisor to sign the permit, and be it further

RESOLVED, that Aqua Tech Environmental, Inc. is authorized by the Town Board to treat Green Lake with aquatic herbicides in compliance with the NYSDEC regulations.

The resolution was unanimously adopted.

New Business #12 Refer to the Planning Board & Conservation Board

18) 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 Planning Board and Conservation Board the following request: North Forest Development, LLC requesting to build an office park on a parcel of land on Redtail Road. The office park will consist of two buildings totaling 31,000 square feet of office space and three parking lots totaling 138 parking spaces.

The resolution was unanimously adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

Supervisor Cudney stated there would not be a Town Board Work Session next week, Wednesday, February 23, 2005, as two of the Councilmembers will be out of town.

Councilman Jemiolo stated the Recreation Department's Family Skate last weekend was a great success, and about 150 families were present.

Councilman Kaczor stated that the National Alliance of Youth Sports, in their statewide newsletter, stated that the Town of Orchard Park Recreation Department is only one of fifteen worldwide to receive the Five Star Award, having certified in baseball, basketball, soccer, football and golf.

Councilman Mills stated that at the last Erie County Sewer District #3 Meeting, there was a directive from the Deputy Commissioner of Environment & Planning stating that due to County's budget crisis, the County may not have the proper staff, or chemicals, to operate this plant. Councilman Mills stated that Sewer District #3, and the Southtowns Sanitary Sewer Agency, are contracted with Erie County to handle these areas. He said that the County is paid from the tax payers money to supply these services, and there should be no interruption, or danger to these services. Councilman Mills is going to pursue this with the Legislators that are on the Environment & Planning subcommittee as this has nothing to do with the County's budget.

Councilman Mills stated that the Chairman of the Rt. 219 Scenic Highway Commission, Robert Lenartz, is working very hard to have the 219 highway named "Veteran's Expressway", to honor all our Veterans.

Town Attorney, Leonard Berkowitz, responded to a question from Councilwoman Ackerman regarding the taxes that are reduced through Conservation Easements. Mr. Berkowitz stated that when there is a Conservation Easement, the Town assessment is reduced, and therefore all the taxes on the property are accordingly reduced. It is not just the Town portion of tax that is reduced by the Conservation Easement, it is all the taxes.

DEPARTMENT HEADS FROM THE FLOOR

Reports from Department Heads: Recreation Director Ed Leak gave a report on his department.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #4 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$80,876.13
Part Town Fund	\$2,143.35
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$40,940.76
Special Districts	\$113,604.72
Trust & Agency	\$10,521.58
Capital Fund	\$907.93

The resolution was unanimously adopted.

Receive & File Communications and Reports

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

RESOLVED, that the Town Board does hereby receive and file the following Communications: State of New York Public Service Commission: Notice of Public Statement Hearings on National Fuel Gas Distributions Corporation's Proposed Gas Service Rate Increase. Public Hearings to be held Tuesday, March 8, 2005, at the following locations: City of Buffalo at 1:00 PM at the Buffalo & Erie County Public Library, One Lafayette Square, and also in the Town of Amherst at 6:30 PM, at the Amherst Main Library at Audubon, 350 John James Audubon Parkway, and be it further

RESOLVED, that the Town Board does hereby receive and file the following Reports: Control of Animals 2004 Yearly Report, Chief of Police's Monthly Report for January 2005, and Building Inspector's Monthly Report & Building Permits for January 2005.

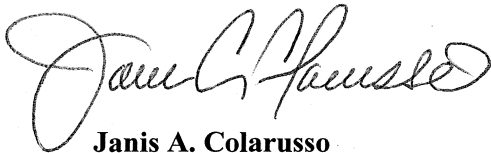
The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Gorden Farquhar – 6100 Newton Road: Mr. Farquhar asked if there could be improved accessibility and sites marked for some of the Towns parks. He has been unable to find the park that is west of Eagle Heights. Councilman Kaczor stated that the Recreation Commission is in process of doing this.

There being no further business from the floor, on motion by Supervisor Cudney, seconded by Councilwoman Ackerman, to wit: the meeting was adjourned at 9:36 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk

