

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 23rd day of February, 2011 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

- PRESENT AT ROLL CALL:**
- | | |
|-------------------------|------------------------|
| Janis Colarusso | Supervisor |
| Nancy Ackerman | Councilmember |
| David Kaczor | Councilmember |
| Edward Graber | Councilmember |
| Eugene Majchrzak | Councilmember |
| | |
| Kathleen Swarbrick | Deputy Town Clerk |
| Leonard Berkowitz | Town Attorney |
| Andrew Geist | Building Inspector |
| Andrew Benz | Chief of Police |
| Frederick Piasecki, Jr. | Highway Superintendent |
| Wayne Bieler | Town Engineer |
| | |
| ABSENT: | Carol Hutton |
| | Town Clerk |

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 ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER GRABER, TO WIT:

RESOLVED, that the Regular Town Board Meeting held on January 26, 2010 and the Executive/Special Session Meetings held on January 26, February 2, 9 & 16, 2011 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 2011 titled "*Amendments to the Town Code of Ordinances*".

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.

Supervisor Colarusso asked if there was anyone in the audience who would like to speak for or against the proposed Local Law for the Year 2011 – *Amendments to the Town Code of Ordinances*.

Brian Manka – Mr. Manka is an Attorney with Hiscock & Barkley representing Knoche Farms Estates Subdivision. Mr. Manka stated that Knoche Farms Subdivision has been before the Town Board for 12 years, with extensive environmental scrutiny and design changes requested by the Town. The new proposed codes will require them to revise the project again. Mr. Manka requested that the Town Board leave the Public Hearing open for written and oral comment until the next Town Board Meeting on March 23, 2011, to allow them to further evaluate the proposed changes.

Councilmember Kazcor stated that the Town Board has already made the decision to keep the meeting open. Councilmember Ackerman stated that they planned to discuss the proposed "Corner Lot" amendment at the next work session.

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

RESOLVED, that the Town Board does hereby stipulate that the Public Hearing for a Proposed Local Law for 2011 entitled "*Amendments to the Town Code of Ordinances*", remain open for written and oral comment, until the next scheduled meeting on March 23, 2011, and this shall be published in the Orchard Park Bee, the official newspaper of the Town.

The resolution was unanimously adopted.

Old Business #1 Schedule Public Hearing for request to rezone Vacant Land on California Road

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

WHEREAS, Walter Schmidt had been granted a Special Exception Use Permit on July 2, 2008 for 14.34 acres of vacant land on the east side of California Rd., south of Big Tree Rd., to construct a forty-eight (48) unit townhouse project known as "Meadow Wood Town Houses", and

WHEREAS, the Special Exception Use Permit expired on January 2, 2011, and Mr. Schmidt wishes to pursue the project

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize to set a Public Hearing for March 23, 2011 at 7:00 pm at the Orchard Park Municipal Center in the matter of the reissuing the rezoning request for Special Exception Use, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the Orchard Park Bee, the official newspaper of the Town

The resolution was unanimously adopted.

New Business # 1 Schedule Joint Public Hearing w/Village to annex property on S. Buffalo St.

The Village Board has set a Joint Public Hearing between the Town of Orchard Park Board members and the Village of Orchard Park Board of Trustees for Wednesday, March 2, 2011 at 6:00 P.M. in the matter of a Petition by Bergner Realty, LLC, for properties located at 4135 North Buffalo, to be annexed from the Town to the Village, which would place his whole parcel in the Village limits.

The resolution was unanimously adopted.

New Business # 2 Budget Amendment for Youth Services

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

WHEREAS, the Town has received notification of increased aid from New York State relating to youth services, and

WHEREAS, the Town's adopted budget for 2011 does not include adequate appropriations and estimated revenues relating to such available aid, and

WHEREAS, the Town wishes to adjust the budget to authorize additional appropriations and the additional aid to be received from New York State,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the following amendment of the Town's 2011 budget to appropriately adjust the amount of aid to be received and authorize additional appropriations for youth services as follows:

General Fund

Increase estimated revenues:	A3820.000	State Aid – Youth	\$4000.00
Increase appropriation account:	A7310.401	Youth Board – Supplies	\$4000.00

The resolution was unanimously adopted.

New Business #3 Safety Week Proclamation

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

WHEREAS, the Western New York Safety Conference, Inc. has taken great pride in the safety of people both on and off the job, and has implemented wide reaching programs for safety education and accident prevention, and

WHEREAS, this program has become an example and a model for all businesses and industries, and has served as a reminder for many of our residents to be more concerned with their own safety at home and at work, and

WHEREAS, it is a pleasure to extend this proclamation on behalf of our Town of Orchard Park to the Western New York Safety Conference, Inc., which will host the 75th Annual Safety Conference and Trades Exhibit at the Grand Island Holiday Inn on March 16, and March 17, 2011, and

WHEREAS, the Western New York Safety conference, Inc., should be commended for its continuing and progressive safety programs, urging our citizens to support all such efforts to promote safety both on and off the job.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park, in the County of Erie, in the State of New York, hereby proclaims the week of March 13th through March 19th as **SAFETY WEEK**.

The resolution was unanimously adopted.

New Business # 4 Promotional Appointments for the Engineering Department

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

WHEREAS, the Town Board has authorized the replacement of the two Principal Engineer Assistant civil service positions in the Engineering Department, and Erie County Department of Personnel currently has a promotional and open list for this position, and

WHEREAS, Bill Fulton has been with the department since 2004, and is the best qualified candidate for the increased duties and responsibilities of the higher title which include the management of the department's information technology, municipal building management, survey and mapping, and geographic information system programs, and

WHEREAS, Michael Billi has been with the department since 2007, and is the best qualified candidate for the increased duties and responsibilities of the department's information technology, subdivision design review management, street lighting management, survey and mapping, and geographic information system programs, and

WHEREAS, both applicants have demonstrated that they have the knowledge, experience and skills necessary to fill the two positions

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to appoint Mr. Bill Fulton, 5285 Berg Rd., Orchard Park NY, and Michael Billi, 5492 Meadow Dr., Boston NY to the position of Principal Engineer Assistants in the Orchard Park Engineering Department at Level 0011, Range B of the wage rate schedule, effective February 28, 2011, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business # 5 Authorize Supervisor to Sign Agreement w/ Nussbaumer & Clark, Inc.

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

WHEREAS, the consultant selection process for the Municipal Center & Library Fire Alarm Improvement Project has been completed, and three professional firms responded to the Town's Request for Qualifications, and

WHEREAS, after review of the qualifications submitted, the consultant selection committee met on defining the scope and request a fee proposal from two firms. Consultant selection was based on the qualifications demonstrated in written and related work references, and

WHEREAS, the committee selected the engineering firm of Nussbaumer & Clark Inc. Engineers & Surveyors to be the Town's consultant for the Municipal Center & Library Fire Alarm Improvement Project Design, and

WHEREAS, the proposed scope of services and agreement by Nussbaumer & Clark Inc. Engineers & Surveyors is satisfactory and will accomplish the goals of the project that were set forth by the Town. The work has been organized into design and construction administration elements. Design includes the

total replacement of the existing Fire Alarm systems to current standards for 48,000 s.f. Municipal Center and 13,550 s.f. Orchard Park Library. The engineering services provided during construction include responses to technical questions from the contractor, pre-construction meeting, progress/inspection meetings, and final walk meeting. The lump sum fee for above professional services is \$9,400.00, and

WHEREAS, there is presently \$26,234.50, \$46,264.96, \$20,612, \$381,030.85 plus interest allocated under Capital Project H-85 Municipal Fire Alarm, H-14 Municipal Reserve, H-81 O.P. Library Renovation and H-85 Municipal Center Roof & Renovations respectfully. In addition the Orchard Park Library Board will forward next week approximately \$126,000 for the grant related projects which included the fire alarm system

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Nussbaumer & Clark Inc. Engineers & Surveyors, 3556 Lake Shore, Suite 500, Buffalo, New York, 14219, to provide professional services for the Municipal Center & Orchard Park Library Fire Alarm Improvement Project in an amount not to exceed \$9,400.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business # 6 Orchard Park Garden Club to hold 2011 Plant Sale at the Railroad Depot

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

RESOLVED, that the Town Board does hereby approve the request of the Orchard Park Garden Club to hold their 2011 Plant Sale on May 20 & 21, 2011 at the Railroad Depot and erect a tent for the event, and be it further

RESOLVED, that the Orchard Park Garden Club will obtain a Certificate of Liability Insurance with the Town of Orchard Park being named as additional insured.

The resolution was unanimously adopted.

New Business # 7 Nativity of Our Lord Parish to hold Annual 5K Race/Walk

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

RESOLVED, that the Town Board does hereby approve the request of Nativity of Our Lord Parish to hold a 5K Race/Walk and October Celebration Saturday, September 10, 2011. The run/walk will begin at 10:00 AM from the Nativity of Our Lord School parking lot and finish by 11:00 AM with post race activities concluded by 2:00 PM. The route has been submitted along with the Certificate of Liability Insurance, and be it further

RESOLVED, that following the Race they will be preparing for a night of festivities at their Oktoberfest Celebration.

The resolution was unanimously adopted.

New Business # 8 Town Board to oppose NYS Agriculture & Market dog surcharge

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

WHEREAS, The State of New York, Department of Agriculture, has always imposed a three dollar surcharge to be added to the license fee for un-spayed and un-neutered dogs, and

WHEREAS, this three dollar surcharge, paid by owners of intact dogs was then used to control dog populations by funding spay/neuter programs, thereby putting the cost of such programs on those who choose to keep their dogs intact, and

WHEREAS, responsible dog owners who have sterilized their dogs through spaying or neutering, were therefore able to enjoy a reduced licensing fee, exempt from spay/neuter fees of any kind, and

WHEREAS, The State of New York, Department of Agriculture, as of January 1, 2011 has transferred dog licensing to the local Government level, while maintaining the original three dollar spay and neuter fee, now called a spay/neuter surcharge, AND ARE NOW IMPOSING A NEW SPAY AND NEUTER SURCHARGE OF ONE DOLLAR TO BE ADDED TO THE LICENSING FEE OF EACH ALTERED DOG,

NOW, THEREFORE, be it

RESOLVED, The Town of Orchard Park opposes the imposition of a new spay/neuter surcharge meant for owners who have responsibly sterilized their dogs, thereby contributing to the control of the State of New York's dog population, and be it further

RESOLVED, The Town of Orchard Park will make its opposition known with the adoption of this Resolution which will be forwarded to the Governor of the State of New York, the Western New York Delegation, the County of Erie, and the Commissioner of NYS Department of Agriculture, Patrick Hooker.

The resolution was unanimously adopted.

New Business #9 Approve 2011 Stable Permits

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

RESOLVED, that the Town Board does hereby approve the following Stable Permits as recommended by the Building Inspector:

- Ridgewood Farms, 7613 Behm Rd.
- Hammersmith Farms, 6243 Benning Rd.

The resolution was unanimously adopted.

New Business #10 Winter/Spring Seasonal Appointments for Recreation Department

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

RESOLVED, that the Town Board does hereby authorize the appointments of the following applicants as requested by the Recreation Director, dependent upon the applicants providing the required certifications:

<u>Name</u>	<u>Address</u>	<u>Rate</u>	<u>Position</u>
Adam Spurgeon	101 Tanglewood Dr W.	\$10.50	PT3-E (att)
Tara Minogue	49 Potter Ave.	\$ 8.50	PT2-B(att)
Rate Change			
Marleah Noonan	66 Meadow Rd.	\$10.50	PT3-E (LG)

The resolution was unanimously adopted.

New Business # 11 Town Board to oppose any cuts to 2011/2012 Community Dev. Block Grant Prog.

This Item was Tabled.

New Business # 12 Request for Building Permit extension by Simoncelli Electric

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

WHEREAS, Simoncelli Electric, 3720 California Rd. received approval for a Building Permit on February 17, 2010, which expired February 17, 2011, and

WHEREAS, Simoncelli Electric has experienced a delay in obtaining the three year landscape bond, which is required in order to issue a building permit, and should be in place by March 1, 2011

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the request of Simoncelli Electric for a ninety (90) day extension on the approval for a Building Permit, as recommended by the Planning Board.

The resolution was unanimously adopted.

Refer to Planning Board and Conservation Board

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

RESOLVED, that the Town Board does hereby refer the following request to the Planning Board and Conservation Board:

Young Development, 2240 Southwestern Blvd. Orchard Park is petitioning To rezone Vacant Land, approximately (25.66 +/-acres) located on the west side of California Road, from R-4, to R-4 with a SR (Senior Residential) designation for the purpose of constructing a proposed 228-unit Senior Independent Living Facility sponsored by Bryan Young and Belmont Housing Resources for WNY.(SBL#161.18-1-3)

The resolution was unanimously adopted.

Business from the Floor

Lou Boehm – Mr. Boehm asked why the members of the Town Board are in favor of the completion of the WalMart project when the majority of the residents are opposed to it. He also addressed the horrible road conditions on Lake Ave., and stated that semi trucks should be prohibited from traveling on Lake Ave.

Kathryn Gorkiewicz – Ms. Gorkiewicz commented on the article she read pertaining to the Town Meeting with the WalMart representatives, and encouraged the Town to maintain & enforce the Town standards. She also requested that the Town Board reinstate two open meetings a month, as it gives residents greater access to their public officials, with out playing phone tag, or interrupting them at work.

Dave Schuster – Mr. Schuster stated that he had read that the Town is going to accept into record the Village's request for the Town to include an Economic Impact Study in the approval process, and require WalMart to provide information assembled by an impartial firm. Mr. Schuster feels that the Town should follow through with that.

Nick Taneff – Mr. Taneff pointed out that over the last few weekends, Rosa's has had "Going Out of Business" signs all over Milestrip Rd. He feels that the Town Board should create legislation that would derive income from each and every temporary sign placed within our borders, if legally possible, and have a Code Enforcement Officer to work on the weekends to summons the people who do not comply.

Sheila Miller – Ms. Miller would like the Town of Orchard Park to ban Hydrofracking. The whole southwest quadrant of Orchard Park is on well water and Hydrofracking is known to contaminate the water used in the processing site. Hydrofracking uses more than 500 chemicals, creates many gallons of waste water, which runs into the ground. East Aurora, Wales and the City of Buffalo have enacted legislation banning Hydrofracking.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Colarusso told Ms. Miller that the Town Engineer will look into the Hydrofracking issue.

Councilmember Ackerman discussed Conservation Easements. The County found a section of the ordinance that was not correct, but they are going to revise the Conservation Easement legislation, and it will again be adopted.

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

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

Communications

- Orchard Park Village Board asking Orchard Park Town Board to include an economic impact study in the approval process and require WalMart to provide information assembled by an impartial firm which includes case histories of similar communities where WalMart has located other "Super Stores".
- County of Erie issued a report on mortgage tax revenues derived in 2010, which includes a comparison of those amounts to the prior three (3) years. This report also identifies the

amount revenue disbursed to all cities, towns and Villages in Erie County during that same time period. Report is on file in the Town Clerk's Office.

- Correspondence from Louis Boehm, 6149 Lake Avenue, regarding shortage of industrial property and Wal Mart's intentions relative to the Quaker Crossing project.

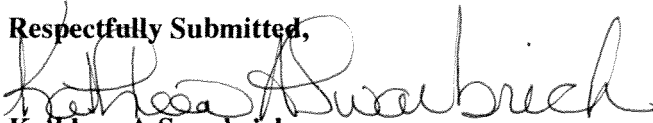
Reports

- Chief of Police's Monthly Report for the month of December, 2010, January 2011 and the 2010 Annual Report.
- Orchard Park Senior Center 2010 Year End Report.
- Building Inspector's Monthly Report for the month of January 2011.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Majchrzak, the meeting was adjourned at 7:50 PM (local time).

Respectfully Submitted,



Kathleen A. Swarbrick

Deputy Town Clerk

