

A Special Meeting was called by the Town Board of the Town of Orchard Park, Erie County, New York, held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 9th day of March, 2011 at 8:28 PM, (local time) and there were:

PRESENT: Janis Colarusso	Supervisor
Eugene Majchrzak	Councilmember
Nan Ackerman	Councilmember
David M. Kaczor	Councilmember
Edward Graber	Councilmember
Carol Hutton	Town Clerk
Leonard Berkowitz	Town Attorney
Wayne Bieler	Town Engineer
Fred Piasecki	Highway Superintendent

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

RESOLVED, that at 8:28 p.m. the Town Board does hereby move to open a Special Meeting of the Town Board.

The resolution was unanimously adopted.

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

Resolution Classifying The Construction And Reconstruction Of Certain Waterline Improvements At An Estimated Maximum Cost Of \$2,265,000 And The Issuance Of Serial Bonds Of The Town Of Orchard Park, Erie County, New York In An Aggregate Principal Amount Not To Exceed \$1,620,000 Pursuant To The Local Finance Law To Finance Such Waterline Improvements As An Unlisted Action Pursuant To The State Environmental Quality Review Act And Determining That The Project Will Not Have A Significant Effect On The Environment.

BE IT RESOLVED, by the Town Board of the Town of Orchard Park, Erie County, New York (the "Town") as follows:

WHEREAS, the Town of Orchard park, Erie County, New York (the "Town") seeks to improve various waterlines, at a maximum cost of \$2,265,000, as more particularly described in the third Whereas clause below; and

WHEREAS, the Town is hereby intends to issue its serial general obligation bonds (the "Bonds") in an aggregate principal amount not to exceed \$1,620,000 pursuant to the Local Finance Law of New York, in order to finance the waterline improvements (the "Project"); and

WHEREAS, the waterline improvements are currently proposed for portions of Jewett Holmwood Road, Cole Road, Faahs Road, Elmtree Road, Weiss Avenue, Duerr Road and South Benzing Road, among others; and

WHEREAS, the Town Board plans to finance the total cost of the Project by the issuance of serial bonds of the Town in an amount not to exceed \$1,620,000 and the expenditure of other available funds to be issued pursuant to the Local Finance Law; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act ("SEQRA"), the Town Board is required to make a determination with respect to the environmental impact of any "action" (as defined by SEQRA) to be taken by the Town Board and the Project constitutes such an action; and

WHEREAS, to aid the Town Board in determining whether the Project may have a significant effect upon the environment, the Town has prepared an Environmental Assessment Form (the "EAF"), a copy of which is attached hereto, and copies of said EAF are on file at the Town Offices and are readily accessible to the public; and

WHEREAS, the Town Board has examined and reviewed the EAF in order to classify the Project and make a determination as to the potential significance of the action pursuant to SEQRA; and

NOW, THEREFORE, be it

RESOLVED, by the Town Board as follows:

(1) Based upon an examination of the EAF, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Town Board's knowledge of the Project, and such further investigation of the action and its environmental effects as the Town Board has deemed appropriate, the Town Board makes the following findings and determinations with respect to the action pursuant to SEQRA:

- a) The Project constitutes an "Unlisted Action" (as said quoted term is defined in SEQRA);
- b) The Project will not have a significant effect on the environment, and the Town Board hereby issues a negative declaration for the action pursuant to SEQRA.

(2) A copy of this Resolution and the accompanying negative declaration shall be placed on file in the Town Office in a file that is readily accessible to the public during regular business hours.

(3) The Town Clerk is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

The above resolution was duly put to a roll call vote, which resulted as follows:

Supervisor Colarusso	Aye
Councilmember Ackerman	Aye
Councilmember Kaczor	Aye
Councilmember Graber	Aye
Councilmember Majchrzak	Aye

The resolution was unanimously adopted.

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

Bond Resolution Dated March 9, 2011 Authorizing The Construction And Reconstruction Of The Water Distribution System, Authorizing The Issuance Of Serial Bonds Of The Town Of Orchard Park, Erie County, New York In An Aggregate Principal Amount Not To Exceed \$1,620,000 Pursuant To The Local Finance Law To Finance Said Purpose And Delegating The Power To Issue Bond Anticipation Notes In Anticipation Of The Sale Of Such Bonds To The Town Supervisor.

BE IT RESOLVED, by the Town Board of the Town of Orchard Park Erie County, New York (the "Town") as follows:

Section 1. The Town shall construct and reconstruct its water distribution system, including the construction, relocation and extension of various waterlines, at a maximum cost of \$2,265,000, as more particularly described in Section 3 hereof.

Section 2. The Town is hereby authorized to issue its serial general obligation bonds (the "Bonds") in the

aggregate principal amount of not to exceed \$1,620,000 pursuant to the Local Finance Law of New York, in order to finance the class of objects or purposes described herein. The proposed maturity of the Bonds will exceed five (5) years.

Section 3. The class of objects or purposes (the "Purpose") to be financed pursuant to this resolution is the construction and reconstruction of the water distribution system, including the construction, relocation and extension of various waterlines, and the costs incidental thereto.

Section 4. It is hereby determined that said Purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

Section 5. It is hereby determined and declared that (a) the maximum cost of the Purpose, as estimated by the Town Board, is \$2,265,000, (b) no money has heretofore been authorized to be applied to the payment of the cost of the Purpose, and (c) the Town plans to finance the cost of the Purpose from funds raised by the issuance of the Bonds and bond anticipation notes hereinafter referred to and the expenditure of available funds in the District Wide Water Improvements Account.

Section 6. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the sale of the Bonds, including renewals of such notes, is hereby delegated to the Supervisor of the Town, the chief fiscal officer.

Section 7. The power to further authorize the issuance of the Bonds and bond anticipation notes and to prescribe the terms, form and contents of the Bonds and bond anticipation notes, including the consolidation with other issues and the use of substantially level debt service, subject to the provisions of this Resolution and the Local Finance Law, and to sell and deliver the Bonds and bond anticipation notes, is hereby delegated to the Supervisor of the Town. The Supervisor of the Town is hereby authorized to sign and the Town Clerk is hereby authorized to attest any Bonds and bond anticipation notes issued pursuant to this Resolution, and the Town Clerk is hereby authorized to affix to such Bonds and bond anticipation notes the corporate seal of the Town.

Section 8. The faith and credit of the Town of Orchard Park, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such Bonds and bond anticipation notes as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall be levied annually on all taxable real property of the Town, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 9. The Town has issued a negative declaration under the State Environmental Quality Review Act determining that the Purpose will not have a significant effect on the environment.

Section 10. This Resolution shall constitute the Town's "official intent", within the meaning of Section 1.150-2 of the Treasury Regulations, to finance the cost of the Purpose with the Bonds and notes herein authorized. The Town shall not reimburse itself from the proceeds of the Bonds or notes for any expenditures paid more than sixty days prior to the date hereof, unless specifically authorized by Section 1.150-2 of the Treasury Regulations.

Section 11. This resolution is adopted subject to a permissive referendum pursuant to Section 35.00 of the Local Finance Law and Section 90.00 of the Town Law. The Town Clerk is hereby authorized and directed within ten (10) days after the adoption of said resolution, to cause to be published a notice which sets forth the date of the resolution's adoption and contains an abstract of the resolution concisely stating its purpose and effect.

Section 12. This Resolution shall be published in full by the Town Clerk together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, and such publication shall be in each official newspaper of the Town. The validity of the Bonds or of any bond anticipation notes issued in anticipation of the sale of the Bonds may be contested only if such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or the provisions of law which should be complied with at the date of publication of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or if said obligations are authorized in violation of the provisions of the Constitution.

Section 13. The firm Hiscock & Barclay, LLP is hereby appointed Bond Counsel of the Town in connection with the bonds and notes herein authorized.

Section 14. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was duly put to a roll call vote, which resulted as follows:

Supervisor Colarusso	Aye
Councilmember Ackerman	Aye
Councilmember Kaczor	Aye
Councilmember Graber	Aye
Councilmember Majchrzak	Aye

The resolution was unanimously adopted.

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

WHEREAS, the Orchard Park Engineering Department has prepared design plans, maps, and is coordinating utility relocations for Jewett Holmwood Road Watermain Replacement Installation. Erie County plans on milling and overlaying the asphalt road on Jewett Holmwood this fall and the Erie County Water Authority has requested the watermain be replaced due to the number of breaks in the past couple of years, and

WHEREAS, the Sewer and Lighting Department does not have the manpower or capability of installing this required amount of water main work for this project in the necessary timeframe and because the cost is estimated above \$35,000.00 the construction work must be completed through the formal bidding process. Construction Plans and Documents will be available on March 21, 2011 at the Town Clerks office, and

WHEREAS, it is expected that construction can start the middle of April, with completion date of 7/22/2011.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorize advertisements in the Orchard Park Bee Publication and The Buffalo News for sealed bids to be opened for Jewett Holmwood Road Watermain Replacement Installations Project at 2:00 P.M. on April 11, 2011 in the Supervisor’s Conference Room at the Orchard Park Municipal Center, and be it further,

RESOLVED, the Town Engineer is authorized to extend or otherwise change the date when bids will be received.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board hereby move to go into Executive Session to discuss the Conservation Board and employees within Town Hall.

The resolution was unanimously adopted

There being no further business, on a motion by Supervisor Colarusso, seconded by Councilmember Ackerman to wit: the meeting adjourned at 9:10 PM (local time).

Respectfully Submitted



**Carol R. Hutton
Town Clerk**