

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 4th day of April, 2012 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:

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|-------------------------|------------------------|
| Janis Colarusso | Supervisor |
| David Kaczor | Councilmember |
| Eugene Majchrzak | Councilmember |
| Carol Hutton | Town Clerk |
| John C. Bailey | Town Attorney |
| Andrew Geist | Building Inspector |
| Andrew Benz | Chief of Police |
| Frederick Piasecki, Jr. | Highway Superintendent |
| Wayne Bieler | Town Engineer |

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

RESOLVED, that the Regular Town Board Meeting minutes held on March 21, 2012, & the Executive/Special Session Meeting Minutes of March 21 & 28, 2012 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 7:01PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the Rezoning of the south side of Southwestern Boulevard, adjacent to the ECC South Campus from B-2 to R-4 with a Collegiate Residential District Designation.

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.

Ralph Lorigo – Mr. Lorigo stated that he is the Attorney representing the developers for the student housing project at ECC South Campus. There is approximately five acres of land on Southwestern Boulevard adjacent to the College where the proposed three buildings would be located, each being three stories in height containing 112 apartment units, with an additional single story rental maintenance building. Erie Community College has a memorandum of understanding with the developers. This project went before the Planning Board, the issues have been addressed and the Planning Board does recommend the Town Board approve the rezoning, along with the Collegiate Residential District Designation This housing project would attract more students and increase the tax benefit for the Town.

John Bernard – Mr. Bernard is the Planning Board Chair and went over some of the points the Planning Board discussed, which were parking, connectivity, security, land use change to the Overlay District and SEQ. The Overlay Ordinance states that should the student housing dissolve, it would have to return to the former zoning code. Mr. Bernard stated that this being a privatized project, the tax benefits would be approximately ten times that of a commercial business.

William Harrington – Mr. Harrington is the Co-Chair of the Comprehensive Plan Implementation Committee. He stated that campus security is a key issue with this project. Mr. Harrington stated that this Committee was formed to look at items as to whether or not land use meets with the Comprehensive Plan that this Town Board enacted a few years ago. He felt it would be a good practice to consider involving the Comprehensive Implementation Committee for review of rezoning requests against the Comprehensive Plan.

Howie Holmes – Mr. Holmes had questions about the security agreement with the developers and ECC. He suggested when there are problems with student misconduct, the direction should be to call the NYS Sheriffs' Department rather than the Orchard Park Police Department. Mr. Holmes questioned what would happen with the buildings if ECC South Campus should be consolidated with the other ECC Campuses. He asked about abatements for the project. Councilmember Kaczor stated that they have applied for a ten year decreasing abatement.

Bill Reuter – Mr. Reuter is the Chief Administrative Financial Officer for ECC and was representing Jack Quinn, the President of ECC. ECC, the Board of Trustees and College Staff are very supportive of this project. The security arrangement has been addressed with the principals of this partnership and they believe that it will be well handled with in staff security, as well as 24/7 on Campus staff security, College safety officers, plus Hamburg and Orchard Park Police Officers. There were no reportable crimes last year. Mr. Reuter stated that in regard to potential consolidation, ECC South Campus is not leaving and wants to continue to grow.

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

RESOLVED, that the Town Board does hereby close the Public Hearing for rezoning the south side of Southwestern Boulevard, adjacent to the ECC South Campus from B-2 to R-4 with a Collegiate Residential District Designation, at 7:20 pm.

The resolution was unanimously adopted.

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

WHEREAS, Regent Companies filed an application (dated February 7, 2012) requesting an amendment of the zoning classification of a parcel of vacant land situated on the south side of (3975) Southwestern Blvd. (SBL# 161.00-5-4 and SBL# 161.00-5-5), adjacent to the ECC South Campus from B-2 to R-4 with a Collegiate Residential District designation, and

WHEREAS, following due and timely notice, a Public Hearing relating to the matter of an amendment to the Zoning Ordinance of the Town of Orchard Park, was conducted at the Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 4th day of April 2012, on the requested amendment of the zoning from B-2 to R-4 with a Collegiate Residential District designation, at which time all interested parties were given an opportunity to be heard, and

WHEREAS, approval from the Town of Orchard Park Planning Board was received and filed with the Town Board with conditions and stipulations

NOW, THEREFORE, be it

RESOLVED, that the Town Board issues a Negative Declaration pursuant to SEQRA based on its determination that the project will not result in any significant adverse environmental impacts to the environment, and be it further

RESOLVED and ORDAINED that the Zoning Ordinance and the Zoning Map of the Town of Orchard Park be and are hereby amended by rezoning vacant land situated on the south side of (3975) Southwestern Blvd., adjacent to the ECC South Campus from B-2 to R-4 with a Collegiate Residential District designation described by the metes and bounds set forth:

BEGINNING at a point in the southerly highway boundary line of Southwestern Boulevard, said point being 19.12 feet more or less easterly of the intersection of the Town of Hamburg and Town of Orchard Park town line and said southerly highway boundary line as measured along that line; thence

1. Easterly and along the southerly highway boundary line of Southwestern Boulevard for a distance of 496.85' more or less to a point; thence
2. Southerly, forming an interior angle of 62 degrees, 59 minutes, 57 seconds with course # 1 for a distance of 530.05' to a point; thence
3. Westerly, forming an interior angle of 98 degrees, 13 minutes, 56 seconds with course #2 for a distance of 464.1' to a point; thence
4. Northerly, forming an interior angle of 81 degrees, 50 minutes, 00 seconds with course #3 and along said Hamburg-Orchard Park town line for a distance of 345.52' to a point; thence
5. Easterly and forming an interior angle of 116 degrees, 56 minutes 03 seconds for a distance of 19.12' more or less to a pint; thence
6. Northerly and forming an interior angle of 243 degrees, 26 minutes, 06 seconds for a distance of 14.67' more or less to a point and place of beginning

And be it further

RESOLVED, that the Town Board does hereby approve the amendment of the zoning classifications subject to the following stipulations and conditions:

- A Negative SEQR Declaration is made for the Unlisted SEQR Rezoning Action. A Long EAF, Parts One and Two shall be submitted or the Site Plan Approval process for review.
- Acreage fees shall be paid in accordance with §144-70C of the Town Code, prior to publication of the Public Hearing Notice.
- Public Hearing fees, in accordance with §144, Attachment 1:3(B) shall be paid prior to the Public Hearing.
- This recommendation is contingent upon the applicants completing the project as proposed on the preliminary development plans received on 1/9/12 and shall revert to its original zoning classification if the project is not completed per §144-67 of the Town Code.
- If in the future, the Collegiate Housing Use is terminated, the owner shall return to the Planning Board for review of the R4 multi-Family Use compliance.

And be it further

RESOLVED, that this Ordinance shall take effect ten (10) days after publication and posting in accordance with law, and be it further

RESOLVED, that the Town Clerk publish and post a copy of said amendment in accordance with §264 and §265 of Town Law.

The resolution was unanimously adopted.

Councilmember Kaczor thanked Mr. Reuter and Mr. Foley, as well as the other representatives for their attendance. He has had the pleasure of working with representatives from ECC, residents and the Planning Board. Councilmember Kaczor stated that with every development there are concerns, but none are insurmountable. This project will attract more students to the ECC South Campus.

New Business #1 Authorize Charge for Non-Criminal Purpose

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

WHEREAS, the Police Chief of the Town of Orchard Park Police Department has advised the Town Board that his department has been providing non-criminal services for fingerprinting & background checks at no charge for non-residents, and

WHEREAS, the Chief is now asking the Town Board to impose a charge of \$20.00 per fingerprinting card and/or background check for all non-residents who come to his department for these services, and

WHEREAS, this charge will help offset the costs of providing this non-criminal service to people who do not live in the Town of Orchard Park.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park does hereby authorize the Police Department to charge \$20.00 to all non-residents for non-criminal services, fingerprinting cards and/or background checks, said fees enacted hereunder to become effective immediately upon adoption of this resolution, and be it further

RESOLVED, the Town Clerk shall forward a certified copy of this resolution to the Chief of Police of the Town of Orchard Park.

The resolution was unanimously adopted.

New Business #2 Award Bid for New Loader

5) 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 Award the bid for the purchase of a new 2010 John Deere Loader (Model 544K 4WD). The lowest responsible bidder was Five Star Equipment, Inc., P.O. Box 985, Orchard Park, NY. Purchase price is \$125,600.00 and the money is in the current budget.

The resolution was unanimously adopted.

New Business #3 Award Bid for New Brush Chipper

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

RESOLVED, that the Town Board does hereby Award the bid for the purchase of a new Trailer Mounted Brush Chipper, Model BC 1800XL to Vermeer Northeast NYNE Equipment, 1235 Route 9, Castleton on the Hudson, NY, 12033, the lowest responsible bidder. Purchase price is \$44,495.00 and the money is in the current budget.

The resolution was unanimously adopted.

New Business #4 Approve Seasonal Employee Appointment

7) 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 approve the appointment of Paul Barker, to work as a Seasonal Employee for Parks and Grounds at a rate of \$10.00 per hour (PT3), retroactive to March 26, 2012, as requested by Highway Superintendent, Fred Piasecki. (Note: Rate, same as last year).

The resolution was unanimously adopted.

New Business #5 Approve Seasonal Employee Appointment

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

RESOLVED, that the Town Board approved the appointment of Julie Fregelette to work as a Seasonal Employee for Parks and Grounds at a rate of \$8.50 per hour (PT1)-E, retroactive to March 26, 2012, as requested by Highway Superintendent Fred Piasecki. (Note: Rate, same as last year).

The resolution was unanimously adopted.

New Business #6 This Item was Tabled

New Business #7 Approve Two Full Time Positions

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

RESOLVED, that Town Board does hereby approve the addition of two (2) Full Time positions of Public Safety Dispatcher for a total of five (5).

The resolution was unanimously adopted.

New Business #8 Approve Eight Part Time Positions

10) 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 approve the creation of eight (8) Part Time Public Safety Dispatcher positions (Competitive).

The resolution was unanimously adopted.

New Business #9 Approve Creation of Ten Part Time Positions

11) 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 approve the creation of ten (10) Part Time Public Safety Dispatcher positions (Non-competitive).

The resolution was unanimously adopted.

New Business #10 Refer to Planning & Conservation Boards

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

RESOLVED, that the Town Board does hereby refer the request of Stream Development, LLC (WNY Urology Associates, LLC) 500 Sterling Drive, located on the west side of Sterling Drive, north of Milestrip Road, Zoned I-1. (SBL# 152.19-1-26.2) Applicant is requesting a Building Permit and Site Plan Approval to construct a 3,300-sq.ft. +/- addition to the existing building.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Carol Jo Pope – Ms. Pope expressed concern over “marketing” Green Lake and asked if the Town is slowly opening the simple gift left by Harry Yates to non-residents thus paving the way for government funding. She asked that Green Lake be kept simple for the residents of Orchard Park to enjoy.

Dave Schuster – Mr. Schuster spoke about downsizing, the Recreation Department and the controversy surrounding Green Lake.

Howie Holmes – Mr. Holmes spoke about Green Lake, Rail to Trails and permit application fees. He suggested that the Town post all available jobs and vacancies for Town committees on the Town website for the public. He asked if the Town could provide maps at the kiosk for the Birdsong Trails.

ELECTED OFFICIALS & DEPARTMENT HEADS

13) THE FOLLOWING RESOLUTION WAS OFFERER BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

WHEREAS, the Town has been successful in obtaining additional funds: and

WHEREAS, the Town did not include either the revenues or the appropriations in the year 2012 adopted budget: and

WHEREAS, the Town does desire to receive additional funds,

NOW THEREFORE, be it

RESOLVED, that the Town Board hereby authorize the amending of the 2012 adopted budget to increase additional appropriations and estimated revenues of \$33,442.10, unanticipated purchase of a loader.

Increase Appropriations:

DA 5130.0200 – Highway – Equipment \$33,442.10

Increase Estimated Revenues:

DA 0000.2655 – Sale of Highway – Equipment \$33,442.10

\$2,000.00 – From: A.7510.0447 – Utility Reimbursement – Jolls House
– To: A.1620.0426 – Jolls House Utilities

And be it further

RESOLVED, that the Town Board does hereby approve the following budget transfers:

\$305.00 - From: A.0000.2701 – Misc. Refund of Prior Years Expense
- To: PS.1110.419 – Town Justice – Other Expenses

Money received from JCAP Grant for the purchase of a Judicial Robe for Judge Lynn Keane.

At 2012 Budget time the Historical Society was still receiving the \$2,000 for the utilities expense at the Jolls House and they paid gas & electric from that amount. It was decided for the budget year 2012 since the Jolls House is the Town's property the money would be put into the Jolls House Utility budget line and the Historical Society would no longer receive the funds for the utilities. Upon review of the 2012 final budget the money was put into the incorrect line item and needs to be transferred.

The resolution was unanimously adopted.

Supervisor Colarusso read a statement from communications regarding the Trash delay. She reported on the closing of HEAP and reported on the Erie County Civil Service postings for exams.

Councilmember Kaczor stated that the Annual July 4th Parade would not be chaired by the Orchard Park Chamber of Commerce. Councilmember Majchrzak's wife, Virgie, volunteered to be the Chair to form a committee to organize a parade. He asked the community for volunteers to help carry on this community parade.

Councilmember Majchrzak read a communication from the Erie County Department of Environment and Planning determining that they would not support a Disc Golf Course proposal at the site of the Eternal Flame stating it would be inconsistent with the policies in the master plan and would conflict with the natural area. He gave credit to the Conservation Board and Chairman, Richard Schechter, for their communication with the Erie County Executive and the Erie County Parks Department.

Police Chief Benz announced that four local Boy Scout Troops will be out fundraising on April 28, 2012 for the Orchard Park Who's Who phone books. He thanked Highway Superintendent Piasecki for his department's help on the animal shelter.

Highway Superintendent Piasecki stated that Iroquois Drive total reconstruction and drainage will start in April. He reported that the second portion of Benning Road will begin in May. He reported that with the help of Ray Stromecki, the Town will receive \$8,250.91 due to a mistake on an audit through the New York State Fund.

14) 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 #7 following auditing by members of the Town Board and in the funds indicated:

| | |
|---------------------------|--------------|
| General Fund | \$68,006.25 |
| Public Safety Fund | \$2,562.88 |
| Part Town Fund | \$657.97 |
| Risk Retention | \$0.00 |
| Cemetery Fund | \$0.00 |
| Highway Fund | \$41,708.82 |
| Special Districts | \$104,104.49 |
| Trust & Agency | \$100.00 |
| Capital Fund | \$2,841.30 |

The resolution was unanimously adopted.

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

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

- The Town Board of the Town of Orchard Park would like to express their apologies for the inconvenience to the residents who had to endure the untimely collection of trash this past week. This unfortunate situation came upon many residents within the town with no warning. The Town Board has spoken to Allied Waste, Inc. to insure trash collection from this day forward is picked up every week in the manner our residents are a custom to. The Town Board also requested from Allied Waste a resolution to this problem in writing, which will be shared with the residents once the information is received.
- County of Erie, Traffic Engineer determined that an All-Way STOP would be warranted as an appropriate intersection control for New Taylor/S. Taylor/Taylor Road (CR 177). The Erie County Highway forces will upgrade and install all necessary signage as per section 1651 of New York State Vehicle & Traffic Law. Also in agreement with your recommendation of establishing a reduced linear speed limit of 40 MPH between Newton Road and the Town of Boston line, in accordance with section 1662-1 of the New York State Vehicle & Traffic Law.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Majchrzak, the meeting was adjourned at 7:55 PM (local time).

Respectfully Submitted,



**Carol R. Hutton
Town Clerk**