

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 2<sup>nd</sup> day of May 2007 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b>	Mary Travers Murphy	Supervisor
	David Kaczor	Councilman
	Nancy Ackerman	Councilwoman
	Mark Dietrick	Councilman
	Deborah Yeomans	Councilwoman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Samuel McCune	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

**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."*

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

**RESOLVED**, that the minutes of the Meeting of the Town Board held on April 18, 2007 and the Executive Session Minutes for April 11 and 18, 2007, 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.**

**New Business #1 Authorize the Building Inspector to Purchase a New Ford Pickup Truck**

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

**RESOLVED**, that the Town Board does hereby authorize the Building Inspector to purchase one (1) New 2007 Model Ford F-150 XL 4x2 regular Cab Pickup Truck from Fairport Ford LLC, 71 Marsh Road, East Rochester, NY 14445, under NYS Bid Contract #PR20339, at a cost of \$11,890.00.

**The resolution was unanimously adopted.**

**New Business #2 Approve Part-time Staff Appointment for the Engineering Department**

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

**RESOLVED**, that the Town Board does hereby approve a Part-time Position for Greg Graham, 1671 Bowen Road, Elma New York 14059, to the Engineering Department beginning May 7, 2007, at a wage rate of \$22.00 per hour, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #3 – Tabled:** Approve Excavation Permit #2007-02, Victor Liberatore, 3984 Burke Parkway, Blasdell, for Southwestern Boulevard property adjacent to the Stadium.

**New Business #4 Release Monies Held in Escrow under PIP #2006-01, Armor Knoll Subdivision**

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

**WHEREAS**, on December 20, 2006 the Town Board accepted dedication of the public improvements constructed in the Armor Knoll Subdivision with the stipulation that funds paid by the contractor be held in escrow until pavement/gutters repairs and the outfall storm chamber grate were completed, and

**WHEREAS**, the contractor has since completed the required pavement/concrete gutter repairs on Aaron Trail and the outlet storm chamber grate. The work was inspected by the Engineering Department and found to be in compliance with Town specifications.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Town Clerk to release to Ingalls Site Development, Inc., 500 Bullis Road, West Seneca, New York 14224, the \$18,000 held in escrow for Pavement/Gutters Repairs and Outfall Storm Chamber Grate in Armor Knoll Subdivision PIP #2006-01, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #5 Authorize the Advertisement for Summer Help / Water & Sewer Department**

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

**WHEREAS**, funds have been allocated in the 2007 budgets for seasonal help in the Sewer, Water Lighting and Engineering Departments. To date, no applications have been received and we would like to advertise for the four summer help positions at an hourly rate of \$8.00-\$10.00, depending on experience.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the advertisement in the Southtown Citizen for summer help in the Sewer, Water, Lighting and Engineering Departments, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Proclamation Congratulating Christ the King Seminary on the 150<sup>th</sup> Anniversary**

6) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

**WHEREAS**, in 1855 four Franciscans arrived at the invitation of the first Bishop of Buffalo, John Timon, to begin their missionary, pastoral and educational work in Western New York, and

**WHEREAS**, February 18, 1857, is the founding date for the Seminary when Bishop Timon made a motion that the St. Francis Missionary & Benevolent Society use the new building to establish an educational institution. The idea was approved and the school was named St. Bonaventure's College and Seminary, located in Olean, New York, and

**WHEREAS**, on June 8, 1933 the ground breaking took place for the new seminary building after a fire destroyed the original Seminary building on May 5, 1930. Pope Pius XI recommended to Rector Thomas Plassman, who was visiting Rome, that the Seminary adopt the name "Christ the King", and

**WHEREAS**, in 1974 the Seminary and the collage became two separate institutions, St. Bonaventure University and Christ the King Seminary and two months later Christ the King Seminary received an invitation to move to its current location in East Aurora, New York, and

**WHEREAS**, in 1977 Christ the King Seminary was accredited by the Association of theological Schools, and is the only fully accredited graduate school of theology in Western New York. The Seminary is primarily a place of formation for sponsored candidates training for the Catholic priesthood, as well as a school of pastoral ministry & theology for lay Catholics. It is also noted for its ecumenical openness to Protestant students preparing for lay and ordained ministries.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board of the Town of Orchard Park, in the County of Erie, State of New York, does hereby congratulate Christ the King Seminar on its 150<sup>th</sup> Anniversary and sends its best wishes for continued success.

**The resolution was unanimously adopted.**

**New Business #7 – Tabled: McDonalds Project, 3232 Orchard Park Road; Final Site Plan Approval**

7) 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 table the proposed McDonald Project, 3232 Orchard Park Road for a Final Site Plan Approval.

Councilwoman Ackerman stated she needs to table this item this evening for she still has further discussions with Sean Hopkins, the Attorney representing McDonalds, on the proposed site plan.

**The resolution was unanimously adopted.**

**New Business #8 The Spring 2007 Staff Appointment(s) for the Recreation Department**

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

**RESOLVED**, that the Town Board does hereby authorize the following Spring 2007 Staff Appointment to the Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director.

<b>Name</b>	<b>Address</b>	<b>Position</b>	<b>Title</b>	<b>Rate</b>
Stephanie Rowland	Town of Orchard Park	PT2-B	Att.	\$9.00

**The resolution was unanimously adopted.**

**Elected Officials & Department Heads**

9) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the following budget transfer, as requested by the Building Inspector:

**\$7,000.00**      **From:** B.3620.0476 Contract Fire Inspection  
                  **To:**    B.3620.0202 Safety Inspection Vehicle

**The resolution was unanimously adopted.**

Councilwoman Ackerman stated Saturday, May 12<sup>th</sup> will be the Annual Town Free Mulch Day at the Orchard Park Compost Site for Orchard Park Residents from 8:00 AM to 4:00 PM. All residents will have the opportunity to take up to two (2) yards of mulch. She also stated that negotiations/agreement have been made with Holmes & Murphy, 75 Bank Street, to purchase property located at the corner of Thorn Avenue and Duerr Road, which leads into the Orchard Park Little League. This purchase will enable the Town to have an extra forty (40) parking spaces for anyone attending the games. Councilwoman Ackerman said this extra land will also enable the Town to establish a water line into the park, which will be very helpful to the town in the future.

Councilwoman Yeomans stated a resident has requested that the Town have a display honoring our men and woman who serve in Iraq. She asked that if anyone has a family member or if they know of someone serving in Iraq, to please bring these pictures to the Town Clerk's office to be displayed.

Councilman Dietrick stated he would like to be excused at 7:40 PM, as his son is getting inducted in the National Honors Society this evening at the Orchard Park High School. Councilman Dietrick reported a letter was received from Brown & Stromecki (Agent of Record for Selective Insurance) that stated upon review of the premium comparison sheet (prepared by the Insurance Review Committee) the Agency found that the Flood & Earthquake Premium had been omitted. Mr. Dietrick stated the Town Board has advised the Insurance Review Committee to reinstate the Flood & Earthquake coverage and correct the insurance quote for the Town. Councilman Dietrick mentioned that there have been rumors that Wal-Mart is getting a tax break. He asked the Town Assessor to put together the figures for Wal-Mart and he quoted estimated figures to the audience.

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

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the Agreements for the Orchard Park Little League for the use of Brush Mountain Park, pending that Insurance Certificates are in place, and be it further

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the Agreement for the Orchard Park Soccer Club for the use of Milestrip Road Sports Complex Concession/Restroom Facility, pending all Insurance Certificates are in place.

**The resolution was unanimously adopted.**

The Town Attorney brought the Town Board up to date on property located on Hobby Lane owned by the late Edmund Burke that Town of Orchard Park took through eminent domain.

Highway Superintendent, Fred Piasecki, reported on the new hours at the Compost Site, which would begin on Monday, May 7<sup>th</sup> through Friday from 8:00 AM to 5:00 PM and Saturdays 8:00 AM until noon. He stated Saturday, May 12<sup>th</sup> would be the Town wide Free Mulch Day from 8:00 AM until 4:00 PM. He stated that the final check for \$40,003.38 has been received from the County for the snow plowing efforts from the Town Highway after the terrible storm this winter. He reported on the events that happened in Orchard Park on Arbor Day.

Town Engineer, Wayne Bieler, stated Scott Miller completed his Eagle Project at Birdsong Park by putting up five wood duck houses, five bat houses and five blue bird houses. He stated he had the New York State Coalition Board on display in the foyer this evening if anyone wanted to review it. Mr. Bieler stated he has handed in his report for the New York State Association of Town Conference he attended in February.

**11) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:**

**RESOLVED** that the Town Board does hereby authorize the approval of all entries on Warrant #9 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$ 233,389.53
<b>Part Town Fund</b>	\$ 5,735.82
<b>Risk Retention</b>	\$474.40
<b>Cemetery Fund</b>	0
<b>Highway Fund</b>	\$ 338,246.35
<b>Special Districts</b>	\$ 27,991.91
<b>Trust &amp; Agency</b>	\$ 17,571.23
<b>Capital Fund</b>	\$ 362,556.31

**The resolution was unanimously adopted.**

#### **Receive & File Communications**

**12) 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 receive and file the following Communications: Erie County Department of Environment and Planning; Starting May 2, 2007, (and every Wednesday there after until June 6<sup>th</sup>) the Partners For A Livable Western New York, in conjunction with the City of Niagara Falls, will be hosting a series of meetings – “Revitalizing and Romancing the City From Smart Growth to Sustainable Development”. All programs will be held at the Niagara Falls Public Library from 7:00 PM to 9:00 PM. A list of topics can be picked up in the Town Clerk’s office.

**The resolution was unanimously adopted.**

**Receive & File Reports**

13) 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 receive and file the following Reports: Supervisor Mary Travers Murphy's 2007 Report from the Association of Towns Training School held in New York City this past February, and the Chief of Police's Monthly Report for April 2007, and **(not on the agenda)** the Town Engineer, Wayne Bieler's, 2007 Report from the Association of Towns Training School.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

**Louis Boehm** – Mr. Boehm stated that he read a prepared statement against suburban expansion and development, in reference to the proposed Wal-Mart. Councilman Kaczor stated that if any community could exist without growth, it would be ideal. It could be done short term, but eventually the residents would have to pay an annual increase in taxes to support inflation, road work and the cost of living for the operation of government. Supervisor Travers Murphy stated that effectively trimming government would help.

**Chris Weyer** – Ms. Weyer stated she asked for information and clarification on the process in decision making with the Town Board and developers. Councilwoman Ackerman and Town Attorney Berkowitz explained the process in New York State is set up whereas people are elected by the citizens to legislate on behalf of the municipality. Supervisor Travers Murphy stated that an Architectural Review Board could be established in Orchard Park, as they are in other towns. Councilwoman Ackerman stated there has been an interest in an Architectural Review Board for several years and an ordinance has been written, but not adopted. She stated that the Town does want to have guidelines for a harmonious look to the Town, without all the bureaucracy. Town Attorney Berkowitz stated that Councilwoman Ackerman, as the liaison, works to have the developers comply with the Town's wishes since the Town does not have the authority without an ordinance in place or an Architectural Review Board. Councilwoman Ackerman stated that up to now, the Town has been successful with the goodwill of the developers. The Town does need the binding power and will be moving forward to pass an ordinance that can be implemented by some group, whether it be through the Planning Board or an Architectural Review Board. Councilwoman Yeomans recommended again, that the Town advertise for resumes from people who would like to become involved with Town committees.

Ms. Weyer asked about the progress of the updated Comprehensive Plan. Councilwoman Ackerman stated that the Conservation Board is submitting their final section and everything is ready. Within the next few weeks, the updated document should be ready for the next Public Hearing. Elements of the Comprehensive Plan are being implemented, even as the updating is taking place. Town Attorney Berkowitz stated that there is and has been a Comprehensive Plan since 1985 in Orchard Park.

**Carol Trala** – Ms. Trala live on Benzing Road near the proposed project. She stated that she has been before the Town Board to voice her feelings against Fisher Bus and is again asking the Town Board to vote against this proposal in her neighborhood. She asked why there are new buildings going up while there are vacant buildings. Councilman Kaczor stated that Orchard Park has one of the lowest rates of vacant buildings in Erie County. Builders that own a property have the right to build in accordance to the zoning of that property. Ms. Trala asked why the residents taxes don't go down if the developments bring in more tax revenue. Councilwoman Ackerman explained the breakdown of the total taxes and the Town portion is one of the lowest tax rates in New York State. Ms. Trala spoke of the loss of nature and wildlife

with added building. Councilwoman Yeomans told Ms. Trala that she is not alone in her concerns and the Town Board members share her feelings and want smart growth for Orchard Park. Councilwoman Ackerman stated that everyone feels the same about the loss of green space and that is why the Town has the Management Overlay District and Conservation Easement Programs and require developers to have green space for development of parks. Supervisor Travers Murphy stated that it can be done better, especially with a solid Comprehensive Plan in place. Councilman Kaczor stated that Orchard Park has been written in local publications that it is considered to be one of the top two toughest areas for developers' projects to be approved. Councilman Kaczor further explained about the controlled growth of home building. Councilman Kaczor stated that the Fisher Bus proposal is not near any final conclusion. Councilwoman Yeomans is concerned with Town's quality deteriorating.

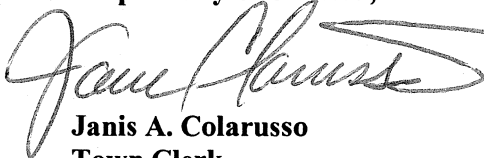
**Barbara Little** – Ms. Little is concerned with traffic and safety in regards to the Fisher Bus proposal. Town Engineer Bieler stated that traffic lights, warning lights and other concerns fall under the SEQR Review and EIS. There is nothing submitted yet. Councilman Kaczor stated that the Town has the option to hire a consultant to review the information submitted at the petitioner's expense. Supervisor Travers Murphy stated that the petitioner has to submit a cumulative traffic impact study as well.

**Robert Frantsits** – He asked about the Comprehensive Plan and about the buffer for the Krog business across from his house. Building Inspector Geist stated that the berms for this building are towards Rte. 20A and the buffer near California Road was partially taken out. The Town stopped any more action on the buffer and it was sent back to the Conservation Board to resolve this issue.

**Sally Denesha** – Ms. Denesha would like to keep as much green space as possible and is against more building in Orchard Park.

There being no more business from the floor, on motion by Councilman Kaczor, seconded by Councilwoman Yeomans, to wit: the meeting was adjourned at 8:17 PM (local time).

Respectfully Submitted,



**Janis A. Colarusso**  
Town Clerk

