

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 May 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
	Ronald A. Geitter	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 SUPERVISOR CUDNEY, TO WIT:

RESOLVED, that the minutes of the Town Board Meeting held on April 20, 2005, 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.

Old Business #1 Walh Performing Arts Requesting a Building Permit for a Voice & Acting Studio

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

WHEREAS, the Walh Performing Arts Center has requested a Building Permit to construct a 6,000 sq. ft. building in two phases to house a dance, voice and acting studio on vacant land south side of Southwestern Boulevard, across from St. John Vianney Church, and

WHEREAS, the Planning Board recommended on 4/13/2005, approval of this request and of the site plan with the following stipulations:

1. This is an Unlisted SEQRA Action based on the submitted Long EAF, Parts One and Two and a Negative Declaration is recommended.
2. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
3. No outside storage or display is permitted.
4. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.

5. A Landscape Completion Bond in accordance with Conservation Board minutes shall be provided for the approved landscape plan, which includes 48% green space, in the amount of \$9,200.00 bond or \$4,640.00 in cash.
6. Town Engineering approval has been granted, 4/13/2005.
7. The applicant is to confer with the Conservation Board to determine what type of trees shall be planted and work with the Town Engineering Department to provide an increase in buffering along the rear line during the final phase.

RESOLVED, that the Town Board does hereby authorize the approval of a Building Permit as requested by the Walh Performing Arts Center, with the stipulations listed and a landscape completion bond of \$9,200.00 or \$4,640.00 in cash.

The resolution was unanimously adopted.

Councilman Kaczor introduced David Walh who was in the audience. He stated that this new facility, which is moving from West Seneca to Orchard Park, has a wonderful reputation and will be a tremendous asset to the community.

New Business #1 Advertise for Summer Help for the Sewer & Water Department

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

WHEREAS, funds have been allocated in the 2005 budget for seasonal help in the Sewer & Water Department, and

WHEREAS, to date the Engineering Department has received only one application and would like to advertise for two summer help positions at an hourly rate of \$7.50/hour. The rate of pay has been \$7.00 per hour since 2001 and in order to attract qualified candidates this rate should increase to \$7.50/hour

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the advertisement in the Southtowns Citizen for summer help in the Sewer & Water Department at an hourly rate of \$7.50/hour, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #2 Approve Change Order #6 with Kandey Co. for Comprehensive Water System

The Engineering Department is requesting Town Board approval of a Change Order to the Contract with Kandey Company, Inc., for the Comprehensive Water System Improvements Project – Part 2 in the amount not to exceed \$60,000.00. This would increase the total contract amount to \$1,485, 272.06 representing an increase of 4.2%.

At this time, Supervisor Cudney requested that the Town Board Table this item and discuss it further at the next Town Board work session.

New Business #3 Adopt the Proposed Resolution for Route 219 Scenic-By-Way

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED UNANIMOUSLY BY THE TOWN BOARD, TO WIT:

WHEREAS, the State of New York has a program in place to protect highways and by ways in New York State through their Scenic By Way program, and

WHEREAS, the Towns of Orchard Park, Boston and Concord in New York State have formed a joint committee whose goal is to have the portion of the Route 219 Highway between the Towns of Springville, NY and Orchard Park, NY designated as a Scenic By Way, and

WHEREAS, the Orchard Park Town Board would like to maintain the scenic beauty and charm of Route 219, and honor the Veterans of America

NOW, THEREFORE, be it

RESOLVED, that the Orchard Park Town Board does hereby encourage all involved State agencies to grant this portion of Route 219 a Scenic By Way designation, and be it further

RESOLVED, that the above mentioned portion of Route 219 be renamed in honor of the veterans of the US Armed Forces who have fought for our freedom to the "Veterans Memorial Highway".

Supervisor Cudney invited Robert Lennartz, Chairman of the Scenic By Way Committee, to share some information with the audience and display his maps.

Mr. Lennartz stated that the Committee has spent three years researching the Scenic By Way and came up with a consensus between Orchard Park, Boston, Concord and the University of Buffalo's Urban Design Project Team, who created the finished presentation. Mr. Lennartz highlighted the natural points of interest on the twenty three-mile highway. He feels that promoting the Scenic By Way would help this area economically. He stated the By-Way status would avail the Town to funding packages. Mr. Lennartz stated that New York State wanted the Committee to have a theme for the project. He would like to honor the veterans and name it "Veterans Memorial Highway". Senator Volker, Congressman Higgins, Congressman Reynolds and Congressman Quinn agreed to this name for the northern part of the Rt. 219 Highway, but the southern end of the highway they would like to honor Mr. Arthur Benson, a longtime resident of Springville, who was one of the major proponents for the completion of the Rt. 219 Highway. Mr. Lennartz stated that hopefully on Memorial Day weekend, the New York Delegation along with the Scenic By Way Committee will announce and commemorate Mr. Benson and the "Veterans Memorial Highway". Mr. Lennartz thanked everyone for their support especially the Town Board.

Councilman Jemiolo (on behalf of the Town Board) congratulated and thanked to Mr. Lennartz for all his work and for bringing the news of the project to the Town Board. It was spectacular.

Councilman Kaczor stated that Mr. Lennartz gave a lot of credit to the University of Buffalo, but he said Mr. Lennartz was the driving force behind the project.

Councilman Mills asked Mr. Lennartz if there would be a rest stop constructed. Mr. Lennartz stated that they have not gotten to that point as yet.

The resolution was unanimously adopted.

New Business #4 Authorize the Supervisor to sign Agreements with OP Central School the District

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

WHEREAS, the renewal of agreements must be approved annually between the Orchard Park Central School District and the Town of Orchard Park for the use of Yates Park, School Buses and School Buildings and Playgrounds

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Agreements with the Orchard Park Central School District for the use of Yates Park, School Buses and School Buildings and Playgrounds for 2005–2006.

The resolution was unanimously adopted.

New Business #5 Authorize the Chamber of Commerce to hold the Annual 4th of July Parade

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

RESOLVED, that the Town Board does hereby authorize the Chamber of Commerce to hold the 4th of July Parade on Monday, July 4, 2005. The Parade will assemble at 7:00 PM at the Orchard Park High School parking lot at Freeman Road, due to the construction on Baker Road, and start at 8:00 PM. The Parade will proceed south on Freeman Road, right onto Quaker Street and left onto South Lincoln Avenue with the fire works display behind the Orchard Park Middle School to follow. There is a rain date for the fireworks on Tuesday, July 5th, but there will not be a rain date for the Parade.

Councilwoman Ackerman stated that there will be numerous prizes awarded in selected categories to participants in the Parade.

The resolution was unanimously adopted.

New Business #6 Supervisor to sign the Contract with Skylighters of Western New York

7) 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 authorize the Supervisor to sign the contract between the Town of Orchard Park and Skylighters of Western New York to hold the Annual 4th of July Fireworks Display behind the Orchard Park Middle School on South Lincoln Avenue following the 4th of July Parade.

Councilwoman Ackerman stated that the cost of the fireworks display is \$5,000.00 and the Orchard Park Village has contributed \$500.00 towards the total.

The resolution was unanimously adopted.

New Business #7 Application to NYS Unified Court System, Justice Court Assistance Program

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to submit an application to the New York State Unified Court System, Justice Court Assistance Program requesting \$5,557.00 to purchase: two, five-drawer file cabinets; four, 19" HP L1902 TFT Flat Panel Display computer monitors; two HP Compaq dx2000 Microtowers; two HP LJ 1160 LaserJet Printers; and a AVR 2400 Video Cassette Recorder.

Councilman Kazcor stated that there is no cost to the Town. The money is available through the Court System.

The resolution was unanimously adopted.

New Business #8 Authorize the 8th Annual "Tommy's Run" on July 3rd, 2005

9) 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 authorize the request of Gretchen Gardner Flannery, of the Race Committee for the 8th Annual "Tommy's Run" on July 3rd, 2005 at 7:00 PM. The Race will start and finish at the Recreation Center at Yates Park following the route of the previous years. All proceeds will benefit the Thomas R. Gardner Memorial Scholarship Fund at the Orchard Park High School. The Race Committee must supply a Certificate of Insurance and the Town is named Co-insured.

The resolution was unanimously adopted.

New Business #9 Authorize Building Inspector to accept bids for cleanup and securing of property

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

WHEREAS, on November 13, 2004, there was a structure fire at 5894 Benning Road, and as a result, the attached garage is nearly gone and the house has heavy damage. Extenuating circumstances have prevented any amount of clean up of the site and securing of the property. There are many safety and appearance issues that cannot be neglected, and the following items need to be completed:

1. Take down and remove what is left of the garage.
2. Install a hasp and lock on the rear door of the house, and a lock on one gate to the in ground pool (keys to be given to attorney of former occupant).
3. Remove and dispose of two unlicensed vehicles in the driveway, one if fire damaged, the other had been placed across the street by the owner a long time ago and was for sale. (He does not own the property it was on, so we had it removed from that property).
4. Clean and dispose of all debris on the entire property, some fire related, some not. This includes an old trampoline with a large hole through it, an old swing set and all debris around the house from the fire including some on the roof and within the garage area.
5. Clean up the property across the street. The owner of 5894 Benning Road was allegedly dumping there.
6. Once the clean up is complete, advertise for lawn mowing to be done every other week until the property is being cared for again, or the end of the mowing season, whichever comes first.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Building Inspector to accept bids for the cleanup and securing of property located at 5894 Benning Road, and all the work to be done to the property will be charged to the owners property tax.

The resolution was unanimously adopted.

New Business #10 Renewal of Community Development Block Grant Consortium Membership

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

RESOLVED, that the Town Board does hereby authorize the renewal of the Community Development Block Grant Consortium Membership for an additional three years, 2006 through 2008, between the Town of Orchard Park and Erie County.

Councilman Kaczor stated that this Agreement allows the Town to be eligible to receive Federal Community Development Block Grant Funds under the Consortium's Entitlement Program for the 2006 through 2008 program years.

The resolution was unanimously adopted.

New Business #11 & #12 Approve 2005 Stable Permits for Sandybrook Farm & Skibbereen Farm

12) 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 2005 Public Stable Permits for Sandybrook Farm, 6265 Powers Road and Skibbereen Farm, 5560 Armor Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #13 Proposed resolution relating to the bridge on Freeman Road near Route 20A

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

WHEREAS, the bridge on Freeman Road near its intersection with Route 20A is in desperate need of repair, and

WHEREAS, all engineering work has been completed with regard to the reconstruction of the bridge at Freeman Road near its intersection with Route 20A, and

WHEREAS, funds are available, 80% of the project from the Federal Government, 15% of the project from the State Government and 5% of the project from the County Government, and

WHEREAS, the State and Federal funds may be lost to the County in the event that the project is not completed immediately,

NOW, THEREFORE, be it

RESOLVED, that this Town Board demands that the County of Erie immediately commence reconstruction of the bridge at Freeman Road at its intersection with Route 20A, and be it further

RESOLVED, that the Town Clerk will forward this resolution to the appropriate County agencies.

The resolution was unanimously adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

Budget Transfers

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

WHEREAS, the Town of Orchard Park currently pays a telephone lines charge to Verizon of \$237.97 per month for Repeater-Back-Up for the Police Tower located at the Erie County Water Authority Tank on Lake Avenue, and

WHEREAS, by installing a UHF link, the telephone lines (and the monthly charge) are eliminated forever. The cost savings pays for the UHF link in less than a year. There is money in the Central Telephone Budget to pay for the UHF link

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the following a budget transfer of \$4552.00 from the Telephone Central Account - A.1620.0420 to Police Other Equipment - A3120.0225, as requested by the Supervisor.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the American Legion Post #567, to hold their Annual Memorial Day Parade, Monday, May 30, 2005 at 9:00 AM, at the request of Chairman John Schroeder. The parade will begin at the Orchard Park Library, proceed north on South Buffalo Street to the four corners in Town, and then west on West Quaker Street to Veterans Park where the Memorial Day Ceremony will take place.

The resolution was unanimously adopted.

16) 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 request of Virgie Majchrzak, President of the Birdsong Homeowners Association to post "Stop" signs on Rock Dove Lane and Birdsong Parkway and Birdsong Parkway and Woodthrush, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the request of Peter Marth, 127 Westgate Boulevard, West Seneca, NY 14224, to post a "Deaf Child" sign on the northbound side, which is located in the Town of Orchard Park and in addition, request the Town of West Seneca post a "Deaf Child" sign on the southbound side, which is located in West Seneca, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

18) 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 Supervisor to send a letter to the New York State Department of Transportation to restrict parking on Saturday and Sunday on US 20 with "No Parking" signs from Michael Road to a point 1500 feet north of Cherokee Drive and the Town of Orchard Park will act in conjunction to post "No Parking" signs on the east side of Cherokee Drive after receiving correspondence from the NYSDOT, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

Supervisor Cudney stated that she has been contacted by the family of Don Herbert, a Buffalo Firefighter, who is residing at Father Baker Manor. She stated Don was severely injured ten years ago fighting a house fire, when part of the roof collapsed on him. He has not spoken for all these years. Suddenly, he asked to speak to his wife. The family stated that it is still too soon to know the status of this miraculous happening, but they are very excited and hopeful. Mr. Herbert's family asked Supervisor Cudney if she would extend to the community to please include Mr. Herbert in their prayers.

Councilwoman Ackerman stated that the Youth Court will have 10 Seniors graduating this year and there will be a ceremony on June 1, 2005 at the Town Board meeting in their honor. The recruitment for next year has begun and 13 schools have been contacted. Mr. McGinty will be contacting the Youth Court members from previous years to invite them to a ten-year reunion, which will be held at Green Lake/Yates Park this summer.

Councilman Jemiolo stated that the Town Board would submit a resolution opposing a regional police force as proposed by the Erie County Executive. He stated that public safety is a key element in our Town and we are very proud of our Police Force. Regionalism works very well in some instances, such as the Erie County Water Authority, sewer districts and others, but not for our Police Department. Councilman Jemiolo stated that he has been researching tax rates with other communities and Orchard Park has a good comparison for the services we receive.

Councilman Kaczor stated that the Orchard Park Recreation brochures have been mailed to the residents for the summer programs.

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

RESOLVED, that the Town Board does hereby direct the Supervisor to refund the landscape bond on May 5, 2005 to Diversified Control Inc., in the amount of \$16,750.00 for hydro seeding of the area in the rear and east of the buildings, as recommended by the Town Attorney.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby cancel the Public Hearing scheduled for May 18, 2005 for Joseph and Diane DeMarco, 3964 California Road from R-4 to I-1. A Public Hearing will be rescheduled after the necessary information is submitted by the petitioner, as recommended by the Building Inspector.

The resolution was unanimously adopted.

DEPARTMENT HEADS FROM THE FLOOR

No one spoke.

21) 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 authorize the approval of all entries on Warrant #9 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$373,909.94
Part Town Fund	351.17
Risk Retention	0.00
Cemetery Fund	0.00
Highway Fund	8,340.50
Special Districts	22,340.01
Trust & Agency	15,114.58
Capital Fund	61,941.00

The resolution was unanimously adopted.

Receive and File Communication & Reports:

22) 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 Communication: State of New York Department of Transportation: An open forum public hearing will be held between 5:00 PM and 9:00 PM on May 25, 2005, in Room 5102, Building 5 at the South Campus of Erie Community College, 4041 Southwestern Blvd., for the design report for the US Rt. 20, Southwestern Blvd., US Rt. 62, South Park Ave. to NY Rt. 240/277, Town of Orchard Park and Hamburg, and be it further

RESOLVED, that the Town Board does hereby receive and file the following Report: The Police Chief's Monthly Report for April 2005.

The resolution was unanimously adopted.

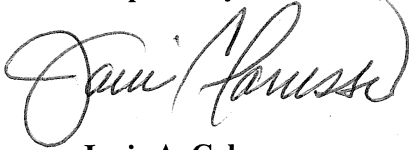
BUSINESS FROM THE FLOOR

Sally Pyne, 6650 East Quaker Street: She spoke on behalf of her son, Bradley Griffin, 5926 Benning Road. She stated that Mr. Griffin wanted to thank Building Inspector Geist for his quick response in regard to the clean up of the property located at 5894 Benning Road. As a mother and a grandparent, she was very concerned about the safety issues and extended her thanks as well.

Scott Kroll, Orchard Park Jaycees: He announced the Community Involvement Fair at Jemiolo's on Monday, May 9, 2005 from 7:00 PM to 9:00 PM and the Orchard Park Jaycees "Earning by Learning" reading program.

There being no business from the floor, on motion by Supervisor Cudney, seconded by Councilman Jemiolo, to wit; the meeting was adjourned at 8:08 PM (local time).

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Janis A. Colarusso".

Janis A. Colarusso
Town Clerk