

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 20<sup>th</sup> day of May 2009 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

**PRESENT AT ROLL CALL:**

Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Edward Graber	Councilman
Janis Colarusso	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:** Mark Dietrick                      Councilman

**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.”*

**Stormwater Phase II Annual Report Coverage – SPDES – Informational Meeting**

At this time the Supervisor opened the *“Informational Meeting”* and asked the Town Engineer, Wayne Bieler, to give an overview.

Mr. Bieler stated that per the Federal EPA Environmental Conservation Law, Clean Water Act, and Stormwater Phase II regulations, the Town must submit to the New York State Department Environmental Conservation, a Stormwater Management Program, and an Annual Report outlining the Town’s progress in meeting the Notice of Intent (NOI) goals. The Annual Report must be submitted to the NYSDEC each year by June 1<sup>st</sup>. Included with the report is the Municipal Compliance Certification Form that must be signed by the Supervisor.

The Supervisor asked if there was anyone that wanted to make a comment. **No one spoke.**

**Old Business #1 Appointments to the 2009 Summer “Seasonal” Staff to the Recreation Department**

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

**RESOLVED**, that the Town Board does hereby authorize the following 2009 Summer “Seasonal” Staff Appointments to the Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director:

<u>Name</u>	<u>Address</u>	<u>Rate</u>	<u>Position</u>
Stephanie Battaglia	Town of Orchard Park	\$9.50	PT2-D (Lg.)
Adam Brouillard	Town of Orchard Park	\$9.50	PT2-D (Att.)
Philip Colarusso	Town of East Aurora	\$8.50	PT1-E (Lg.)
Michael Dillon	Town of Orchard Park	\$8.00	PT1-C (Att.)

David Goltz	Town of Orchard Park	\$8.50	PT1-E (Att.)
Matthew Gura	Town of Orchard Park	\$8.00	PT1-C (Att.)
Arthur Horstkotter	Town of Tonawanda	\$9.00	PT2-B (Att.)
Matthew Kielich	Town of Orchard Park	\$9.50	PT2-D (Att.)
Chelsea LaCongo	Town of West Falls	\$8.00	PT1-C (Att.)
Shaun Looney	Town of Orchard Park	\$8.50	PT1-E (Att.)
Colin McArdle	Town of Orchard Park	\$8.00	PT1-C (Att.)
Zachary McArdle	Town of Orchard Park	\$9.00	PT2-B (Lg.)
Amy Overholt	Town of Orchard Park	\$8.00	PT1-C (Att.)
Alyssa Owczarczak	Town of Orchard Park	\$8.50	PT1-E (Att.)
Anne Romanello	Town of Orchard Park	\$9.00	PT2-B (Att.)
Alex Shafer	Town of Orchard Park	\$8.00	PT1-C (Att.)
Caitlin Schenk	Town of Orchard Park	\$8.00	PT1-C (Att.)
Thomas Schiffler	Town of Orchard Park	\$8.00	PT1-C (Att.)
Corey Stephens	Town of Orchard Park	\$8.50	PT1-E (Lg.)
Sandy Trampert	Town of Orchard Park	\$9.50	PT2-D (Att.)

**The resolution was unanimously adopted.**

**New Business #1 Adopt 2008 Town of Orchard Park Financial Statements for 2008**

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

**WHEREAS**, the Town's audited financial statements, specifically the Comprehensive Annual Financial Report and the Statement of Changes in Cash Balances and Statements of Cash Receipts and Disbursements of the Town Clerk, Town Justices and Tax Receiver for the year ended December 31, 2008, and Independent Auditor's Report by Drescher & Malecki, LLP was presented at the May 13, 2009 Town Board Work Session.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve those reports presented by the Town's independent auditor, Wayne Drescher, Partner at Drescher & Malecki, LLP.

**The resolution was unanimously adopted.**

**New Business #2 (Removed from Agenda) Supervisor to Accept Multi-Jurisdictional Tactical Teams Agreement:** Authorize the Supervisor to sign the Memorandum of Agreement for Multi-Jurisdictional Tactical Teams between the Town of Orchard Park and the member Agencies of the Erie County Tactical Task Force to establish operating procedures for the Erie County Tactical Task Force.

**New Business #3 Approve Final Change Order w/Parise Mechanical for Library Energy Upgrades**

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

**WHEREAS**, the Town Engineer is pleased to inform the Town Board that the HVAC Contract work for the Orchard Park Library Energy Upgrades Project has been completed. On April 27, 2009 a final

inspection was conducted and all of the work has been satisfactorily completed in accordance with the contract documents and specifications, and

**WHEREAS**, the two-year maintenance bond in the amount of \$102,980.00 has been submitted along with all other warranties, equipment manuals and necessary legal documents (Affidavit of Release of Liens, Affidavit of Subcontractor Payment). An Equipment Manual copy was sent to the Highway/Parks and Grounds Department and the Library Maintenance person.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize final payment and release of retention to Parise Mechanical, Inc., 233 Fillmore Avenue, Suite 19, Tonawanda, New York 14150 for the Orchard Park Library Energy Upgrades Project–HVAC Contract in the amount of \$7,001.50, as recommend by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #4 Village Taylor Shop, 3479 Orchard Park Rd, Authorize Change in Use**

4) 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 approve the request of the Village Taylor Shop, 3479 Orchard Park Rd., for a Change in Use from single-family to single-family with business, based as recommended by the Planning Board 5/13/09 with the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Short EAF, parts One and Two and a Negative Declaration is declared.
- The Zoning Board of Appeals granted three (3) Use Variances with a Stipulation on 3/17/09: The Use Variances is only to apply to Susan Jawad; she must reside here and operate her business at this site. The variance cannot be transferred to another party through sale of the home or rental of the property.

**The resolution was unanimously adopted.**

**New Business #5 OPCS Federal Credit Union, authorize Building Permit**

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

**RESOLVED**, that the Town Board does hereby authorize a Building Permit for the OPCS Federal Credit Union, 4000 North Buffalo St, for the Site Plan received by the Planning Board 4/13/09 to accommodate a Drive-thru ATM and teller window on the existing site, as recommend by the Planning Board with the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lens.
- No outside storage or display is permitted.

- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with § 144-25 of the Town Code.
- Town Engineering Approval was granted on 5/13/09
- A 3-year landscape completion bond in the amount of \$5,230.00 shall be provided for the landscape plan received 11/19/08 which includes 69.5% total green space, prior to the receipt of a Building Permit.

**The resolution was unanimously adopted.**

**New Business #6 (Tabled) Sewer, Water & Lightening Department Summer Staff Appointment:** Appoint the Summer Staff to the Town of Orchard Park Sewer, Water & Lightening Department, as recommended by the Town Engineer.

**New Business #7 Chestnut Ridge Village Park Improvements to Existing Trails-Award contract**

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

**WHEREAS**, bids were opened for the Chestnut Ridge Village Park Improvements to Existing Trails on May 14, 2009. This project will consist of the construction of approximately 5,492-feet of nature trails, approximately 886-feet of associate boardwalks, one observation deck, benches, trash cans, and sections of split rail fence along property lines to delineate the Park property ±470 LF total, and

**WHEREAS**, the Engineering Department reviewed the prices of the nine contractors who submitted bids. The lowest quoted base bid of \$269,882.00 is above the Engineer's estimate of \$230,000.00 for the project, but bid results were extremely close. As directed, the alternate bid items are not included due to budget constraints, and

**WHEREAS**, the low bidder for this project was Birch Grove Landscaping. The company has successfully completed various similar projects in the past including the Birdsong Trails project and has been found to have the qualifications and experience to perform this work adequately. I have no reservation about their capabilities, and

**WHEREAS**, there is presently \$120,549.28, allocated under Capital Projects #H-80 Chestnut Ridge Village Trails. The Town has received a NYS Office of Parks, Recreation and Historic Preservation grant for an additional \$100,000.00 for Chestnut Ridge Village Improvements to Existing Trails. An additional \$50,000.00 may be needed for this project. As mentioned, the \$25,000 from Municipal Center NYSEG Electrical refund could be used and if additional funding is needed for unit items it could come from PIP #T-0000.0087.0787 Trust Fund (\$390,000.00 balance).

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby award the contract for the Chestnut Ridge Village Park Improvements to Existing Trails to the lowest responsible bidder, Birch Grove Landscaping, 11736 Big Tree Road, East Aurora, New York 14052 in the amount not to exceed \$269,882.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #8 Appointments to the 2009 Summer “Part-time Seasonal” for the Highway Dept.**

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

**RESOLVED**, that the Town Board does hereby appoint the following individuals to the 2009 Summer “Part-time Seasonal” for to the Orchard Park Highway Department/Compost, as recommended by the Highway Superintendent:

- Bill Schiefer at a rate of \$10.00 (PT3), retroactive to 5/4/09
- Jason Somerville at rate of \$7.50 (PT1), retroactive to 5/4/09
- Mike Graber at a rate of \$7.50 (PT1), retroactive to 5/4/09
- Tim Kasper at a rate of \$10.00 (PT3), retroactive to 5/9/09

Supervisor Travers Murphy	Aye
Councilman Kaczor	Aye
Councilwoman Ackerman	Aye
Councilman Dietrick	Aye
Councilman Graber	Abstained

**The resolution was unanimously adopted.**

**New Business #9 St John Vianney Church, authorize Fireworks Permit**

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

**RESOLVED**, that the Town Board does hereby authorize a Permit for Public Display of Fireworks for St. John Vianney Church, 3250 Southwestern Boulevard for July 24, 25 and 26, 2009, a certificate of insurance #180092 is attached to the permit.

**The resolution was unanimously adopted.**

**New Business #10 Schedule Annual Police Bike & Property Auction**

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

**RESOLVED**, that the Town Board does hereby authorize a public notice for the Chief of Police to hold the Annual Bike & Property Auction, June 13, 2009, at 10:00 AM, in the rear of the Orchard Park Municipal Center, located at 4295 South Buffalo Street, in the Town of Orchard Park, and be it further

**RESOLVED**, that the Town Clerk shall publish due notice in the official newspaper of the Town.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

A large group of individuals came to speak about the Rail-to-Trails Issue and are listed as follows and the recorded comments are on file in the Town Clerks office:

The following individuals spoke **in-favor** of Rails-to-Trails:

Anne Bergantz  
 Toni Cudney  
 Linda Smolarek  
 Earl Aragona  
 Nelson Fuller  
 Paul Szalinski  
 Howie Holmes  
 John Angelbeck  
 Mike Rodems  
 Heather Santoro  
 Anthony Agnello  
 Lisa Martin

Larry Pawinshi  
 Jim Cudney  
 B. R. Latimore  
 Clint Homer  
 Emily Accetta  
 Paul Kramer  
 Joann Zurek  
 Frederick Macadam MD  
 Mike Dudek  
 Richard Schraven MD  
 Phil Toohey

Dawn Fischer  
 Daniel Horan  
 Bill Scott  
 Lucinda Griswald  
 Glenn Shaikun  
 Peter Fenn  
 Gary Koepfel  
 Jay Wopperer  
 Doug Miller  
 Carol Jo Pope  
 Debra Fenn

The following individuals spoke **in-opposition** of Rails-to-Trails:

Frank Tomani  
 Rob Rich  
 Steve Ratchuk  
 Mark Offhaus

Jack Bouquin  
 Jacqueline Alberts  
 Rich Wilcox  
 Julia Lorenz

Carolyn Cappola  
 Diane Czamara  
 Art Christie

John Marlow – wants to see more information about the Rail Trail before anything is done.

Jim Slominski – is a member of the WNY Railroad Historical Society which owns the Orchard Park Depot. He stated that the Depot has been mentioned as a starting point for the Rail Trial, but no one has talked to the WNY Railroad Historical Society about it, and they have some concerns that need to be addressed.

Barbara Little – spoke about traffic congestion at the intersection of Milestrip Road and N. Buffalo St., and the school buses coming out of Eggert Road close to the Milestrip/N. Buffalo St. intersection.

**ELECTED OFFICIALS & DEPARTMENT HEADS**

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCIL, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the following Budget Transfer for the *Planning Coordinator*:

**\$ 46.05**                      From: B.8020.200 is Planning – Computer, Remodeling  
    To:     B.8020.400 is Planning - Supplies

**The resolution was unanimously adopted.**

Councilwoman Ackerman stated Art Splash took place last Friday night, and in the next few weeks the Art teachers, and members of the municipal community will choose the next round of art to be displayed in the Town Hall.

Councilman Kazcor wished to complement Ed Leak, and Audrey Ramage on the “Art Rocks the Park” event last weekend, which was a huge success. He also wanted to thank Fred Piasecki and the staff at the Compost site for their work on the “Free Compost Day”, it exceeded all expectations. Councilman Kazcor stated the hot dogs sold at the Compost Site were donated by John Mills, and the proceeds went to the Boys and Girls Club of Orchard Park.

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

**WHEREAS**, upon the recommendation of the Public Safety Committee, and pursuant to the authority granted by §1660 of the Vehicle and Traffic Law of the State of New York

**NOW, THEREFORE, it is hereby**

**ORDERED**, that two (2) “**CURVE AHEAD**” signs be posted on Timberlake Drive between Mt. Airy Drive and Dale Road and also include two (2) “**15 MPH**” advisory signs, and it is further

**ORDERED**, that two (2) “**STOP AHEAD**” signs be posted on Timberlake Drive alerting motorists to the “**STOP**” signs on Timberlake Drive at Fawn Terrace, and be it further

**ORDERED**, that the Superintendent of Highways be and is hereby directed to post the proper and necessary signs at said locations.

**The resolution was unanimously adopted.**

Highway Superintendent Fred Piasecki stated that the Highway Department is currently cleaning up the roadways, working on drainage issues and will have the Traffic Signs for the above traffic order in place by the weekend.

Town Engineer Wayne Bieler stated that the NYS Department of Environmental Conservation issued proposed revisions to the Dam Safety regulations to be more flexible for Dam owners. The revisions will be available for public comment until June 19, 2009.

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

**RESOLVED**, that the Town Board does hereby authorize the approval of all entries on Warrant #10 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$79,728.55
<b>Part Town Fund</b>	\$833.55
<b>Risk Retention</b>	\$0.00
<b>Cemetery Fund</b>	\$0.00
<b>Highway Fund</b>	\$21,088.71
<b>Special Districts</b>	\$94,860.59
<b>Trust &amp; Agency</b>	\$1,211.51
<b>Capital Fund</b>	\$27,038.44

**The resolution was unanimously adopted.**

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

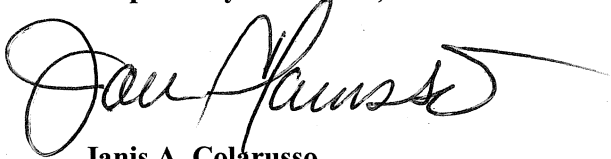
**RESOLVED**, that the Town Board does hereby authorize to receive and file the following Communication: **Stanley Obad, Town of Orchard Park**: Forward a letter to the Town Clerk that he sent to Legislator John Mills thanking him for being so instrumental in the litter clean-up and mowing under the 219 Expressway on Lake Avenue, and be it further

**RESOLVED**, that the Town Board does hereby authorize to receive and file the following Reports: **Modern Disposal Services**: Sent in the Quarterly Commodity Report for the Town of Orchard Park.

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Kaczor, the meeting was adjourned at 8:57 PM (local time).

**Respectfully Submitted,**



**Janis A. Colarusso**  
Town Clerk