

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 15<sup>th</sup> day of June 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, Jr. | 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        |
|                       | 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 Town Board Meetings held on May 18, 2005 and June 1, 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 Old Orchards Woodlands – Requesting to Rezone land North of N. Buffalo Road**

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

**WHEREAS**, following due and timely notice a Public Hearing relating to the matter of the rezoning of property in the Town of Orchard Park, was conducted at the Municipal Center, S4295 South Buffalo Street, Orchard Park New York on the 16<sup>th</sup> day of March, 2005, at which time all interested parties were given the opportunity to be heard, which amendment provides as follows:

To rezone 1.4 acres of land, eastside of North Buffalo Road and north of 3605 North Buffalo Road, from B-3 to R-2, as petitioned by Old Orchard Woodlands, Inc., and

**WHEREAS**, no recommendations from the Erie County Department of Planning, pursuant to Section 239-m of the General Municipal Law was received and filed by the Town Board, and

**WHEREAS**, the Project Sponsor has requested an amendment of the zoning classification of a portion of the Project Site from B-3 to R-2 to allow the relevant portion of the Project Site to be utilized as an eighteen (18) lot residential subdivision that will consist of detached single-family homes on individual lots, and

**WHEREAS**, the proposed project has been classified as an Unlisted Action pursuant to the State Environmental Quality Review Act based on a review of the Environmental Assessment Form submitted by the Project Sponsor, and

**WHEREAS**, the Town Board has reviewed the layout of the proposed eighteen (18) lot residential subdivision and required infrastructure as shown on the Plan prepared by Wm. Schutt & Assoc., P.C., and

**WHEREAS**, the Town Board has given proper consideration to all relevant documentation including but not limited to information presented during the Public Hearing held by the Town Board on March 16, 2005

**NOW, THEREFORE, be it**

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

**RESOLVED**, that the Zoning Map of the Town of Orchard Park are hereby amended by rezoning from B-3 to R-2, vacant land, eastside of North Buffalo Road, and north of 3605 North Buffalo Road, as follows:

**ALL THAT TRACT OR PARCEL OF LAND SITUATE** in the Town of Orchard Park, County of Erie, State of New York, being part of Lot 14, Township 10, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

**BEGINNING** at a point in the easterly line of Orchard Park Road at its intersection with the northerly line of lands conveyed to Paula Sepanik, as recorded in the Erie County Clerk's Office in Liber 11041 of deeds at page 3346; Thence easterly along the northerly line of said lands conveyed to Sepanik a distance of 332.51 feet; Thence southerly along a line at an exterior angle of 90°00'00" a distance of 241.45 feet to a point in the south line of lands conveyed to John Barnes as recorded in the Erie County Clerk's Office in Liber 3742 of deed at page 106; Thence easterly along the south line of said lands conveyed to Barnes at an interior angle of 90°00'00" a distance of 213.57 feet to a point 350' easterly of and perpendicular to the easterly line of Orchard Park Road; Thence northerly along a line at an interior angle of 59°40'04" and parallel with the easterly line of Orchard Park Road a distance of 422.90 feet to a point in the easterly line of lands conveyed to Alan Yox as recorded in the Erie County Clerk's Office in Liber 10887 at page 851; Thence southerly along the easterly line of said lands conveyed to Yox at an interior angle of 30°19'56" a distance of 63.56 feet; Thence westerly along the southerly line of said lands conveyed to Yox at an exterior angle of 90°00'00" a distance of 364.61 feet to the easterly line of Orchard Park Road; Thence southerly along the easterly line of Orchard Park Road being a curved line to the left having a radius of 2242.01 feet an arc distance of 68.05 feet to the point of beginning, containing 59,891 square feet more or less.

**And be it further**

**AND BE IT FURTHER RESOLVED**, that the Town Board does approve this amendment subject to the following conditions:

- The subdivision will not exceed 18 lots with detached single-family homes.
- The subdivision will not be connected to Diller Drive.

The Town Board discussed adding a stipulation regarding: 1) forming a sidewalk district and 2) a proposed green space, but noted that the project manager has to come before the Town Board to get approval for a new "sidewalk district" and the Planning Board will handle the site plan, therefore there is no need to add this concept to the resolution.

**And be it further**

**RESOLVED**, that the rezoning of the above referenced parcel of land is consistent with the comprehensive plan of the Town of Orchard Park, and be it further

**RESOLVED**, 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 shall publish and post a copy of said amendment in accordance with Section 264 and 265 of the Town Law.

**The resolution was unanimously adopted.**

**Old Business # 2 Liberty Wood & Const., 3300 North Benzing Road – Requesting Change-In-Use**

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

**RESOLVED**, that the Town Board does hereby authorize Liberty Wood & Construction, Inc, 3300 North Benzing Road a Change-In-Use from cold storage to manufacturing space. The Planning Board, 6/8/05 recommends approval of this request and of the site plan with the following stipulations:

- This is a Type II SEQR Action and therefore no determination of significance is required.
- The parking as noted is mandatory.
- There will be only (1) dumpster.

**The resolution was unanimously adopted.**

**New Business # 1 Authorize Supervisor to Sign Agreement w/Village for Economic Dev. Committee**

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

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an Agreement with the Village of Orchard Park and the Economic Development Committee, which shall be in effect for one year, automatically renewing unless one of the three parties gives written notice thirty (30) days prior to the expiration of the Agreement.

**The resolution was unanimously adopted.**

**New Business #2 OP Jaycees request for support at Quaker Arts Festival**

5) 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 approve of the 2005 Quaker Arts Festival, sponsored by the Orchard Park Jaycees (all insurance certificates shall be sent to the Town prior to the event), and be it further

**RESOLVED**, that the Town Board does hereby support the Festival with the following items:

- The Town will supply the Orchard Park Jaycees' Quaker Arts Festival Committee with one large dumpster to keep trash under control.
- The Town will supply the Festival with approximately 30 trash containers to be placed throughout the Festival grounds.
- The Town will supply the Festival with picnic tables to be used by attendees for refreshments and to watch the free outdoor entertainment.
- The Town will supply and erect snow fencing to section off the exhibitor areas on the Festival grounds.
- And, if needed, the pick up/return of cones and barricades from United Rentals.

Councilman Kaczor stated that this is the 44<sup>th</sup> Festival and the Town is proud to be a part of it. Supervisor Cudney said that National Environment Inc., our garbage contractor, supplies the dumpster at no charge.

**The resolution was unanimously adopted.**

**New Business #3 Town Recreation Dept. Spring/Summer 2005 "Seasonal" Staff Appointments**

6) 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 approve the following Spring/Summer 2005 "Seasonal" Staff Appointments to the Recreation Department, pending submission of all the required certifications, as recommended by the Recreation Director:

<b>Name</b>	<b>Address</b>	<b>Position</b>
Ann Robinson	3930 N. Hamptonbrook Dr., Hamburg	Guard/Sailing Inst.
Tyler Blonar	2233 New Jerusalem Rd., Eden	Guard

**The resolution was unanimously adopted.**

**New Business #4 Approve Fireworks Permit for St. John Vianney, 2950 Southwestern Boulevard**

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 approve a Fireworks Permit, as petitioned by St. John Vianney Church, 2950 Southwestern Boulevard, for July 22, 23 & 24, 2005, all necessary permits have been filed with the Town Clerk's Office.

**The resolution was unanimously adopted.**

**New Business #5 Request to hold Block Party on Independence Drive in the Cul-de-Sac**

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

**RESOLVED**, that the Town Board does hereby approve the request from Lucinda Liezert, 290 Independence Drive and the residents of Independence Drive, for a Block Party at the end of the street in the cul-de-sac, for Saturday, August 13, 2005, starting at 4:00 PM.

**The resolution was unanimously adopted.**

**New Business # 6 Request to hold Block Party on Ashwood Lane**

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

**RESOLVED**, that the Town Board does hereby approve the request from Heidi Beyer, 80 Ashwood Lane and the residents of Ashwood Lane, for a Block Party on Ashwood between Pinyon and Cranwood Lanes, for Sunday, July 3, 2005.

**The resolution was unanimously adopted.**

**New Business # 7 Authorize bid advertisement for Birdsong Parkway Nature Trails**

The Town Engineer requested this item be tabled. He stated it will be brought up at a future date.

**New Business # 8 Authorize Agreement between the Town & OP Little League/Concession Facility**

10) 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 Supervisor to sign the Agreement between the Town of Orchard Park and the Orchard Park Little League Baseball for the use of the Concession Facility and Restrooms, at Brush Mountain Park on California Road.

**The resolution was unanimously adopted.**

**New Business # 9 Accept resignation of Beverly Foit-Albert from OP Historic Preservation Board**

11) 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 accept, with regret, the resignation of Beverly Foit-Albert, from the Town of Orchard Park Historic Preservation Board, as of June 8, 2005.

**The resolution was unanimously adopted.**

**New Business #10 & #11 Refer to the Planning Board and/or Conservation Board**

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

**RESOLVED**, that the Town Board does hereby refer to the Planning Board the following requests: Franklin Downing, Towne Automotive Group, request for an extension of the 1999 Site Plan Approval for property on Southwestern Boulevard, and West Herr Chevrolet, 3565 Southwestern Boulevard., request for a Building Permit to construct a 3,552 square foot addition.

**The resolution was unanimously adopted.**

**ELECTED OFFICIALS & DEPARTMENT HEADS**

**Budget Amendment**

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

**WHEREAS**, the Town has received a grant to provide new or expanded services for senior citizens, and

**WHEREAS**, the Town's 2005 adopted budget does not contain appropriations relating to such grant, and

**WHEREAS**, the funding for these adjusted appropriations will be supported by state aid from such approved grant

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the amending of the Town's 2005 budget to increase estimated revenues and authorize additional appropriations as follows:

**Increase appropriation account:**

A.7610.0200 Senior Citizens Program – Equipment      \$ 2,983.63

**Increase estimated revenues:**

A.0000.3803 – State Aid – Senior Ctr. Program Grant      \$ 2,983.63

**The resolution was unanimously adopted.**

**Budget Transfer**

14) 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 following budget transfer for the additional transportation cost for moving the recreation programs from the South Davis School to the Ellicott Road School, as recommended by the Recreation Director:

**\$ 3,000**      From: A.7020.201      Playground Equipment  
                    To:    A.7020.463      Transportation

**The resolution was unanimously adopted.**

15) 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 authorize the following budget transfer for Green Lake Channel Cleaning, as requested by the Supervisor:

**\$ 10,000**      From: A.1910.0480      Contingent  
                    To:    A.7110.0449      Lake Maintenance & Channel Cleaning

**The resolution was unanimously adopted.**

Supervisor Cudney announced that the Senior Games are going to take place from July 8<sup>th</sup> to July 22<sup>nd</sup>, and the registration for these games begins on June 27<sup>th</sup>. She also announced that the Animal Control Department will commence larvicide treatment for mosquitoes, on June 20<sup>th</sup>, in all the DI's in the Town as part of the West Nile battle. If anyone has concerns about standing water on private property, the Animal Control Officer will, when available, come and take a sample to check for mosquito larvae in the water. If larvae are present, he will notify the Erie Co. Health Dept. to see if they will treat the site. Brochures regarding the West Nile Virus are available in the Town Clerk's office.

Councilman Jemiolo said that some of the developers have indicated that they would like the Town to develop ordinances that would allow townhouses in Orchard Park. The Town Code originally included "cluster development" in but it had been deleted. Supervisor Cudney has some friends in New Town, Pennsylvania that live in a type of townhouse and graciously offered their place for members of the Town Board (Supervisor Cudney & Councilman Jemiolo) and Planning Board (John Bernard & Paul Bodden) to examine. Councilman Jemiolo stated that it was stunning. The term used in this development was "Village Housing". The John Bernard and Paul Bodden were able to talk to the local officials in New Town regarding the regulations and ordinances involved with "Village Housing", and brought this information back with them. Councilman Jemiolo wanted to thank Dan & Jean Cunney, former residents of Orchard Park, for their kindness and hospitality.

Councilman Kaczor announced that the South Davis Summer Camp will be combined with the Ellicott Road Day Camp, as the South Davis School is under construction this summer. The Lion's Club Fishing Derby is going to be on June 26<sup>th</sup> at Green Lake.

Fred Piasecki, Highway Superintendent, stated that next week they were going to pave Murphy Road, Quaker Lake Terrace & Maple Drive. He stated that the South Lane project was about 45% completed on the drainage.

**16) 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 #12 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$132,727.89
Part Town Fund	\$40.50
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$15,605.79
Special Districts	\$133,167.35
Trust & Agency	\$4,378.18
Capital Fund	\$33,085.31

**The resolution was unanimously adopted.**

**Receive & File Communications**

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

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

- Erie County Legislature: Resolution regarding rates for the County of Erie/Towns and Villages Snow Removal and Ice Control Agreement for 2005 & 2006.
- New York State Public Interest Research Group: Letter stating they will be conducting a door-to-door outreach program, between June 7, 2005 and July 7, 2005. A volunteer list was attached.
- Notice of Public Hearing, East Aurora Zoning Board of Appeals: Regarding the Bob-O-Link Golf Club submitting an application for a front yard variance and a front yard set-back, June 16<sup>th</sup> 2005 at 7:30 PM in the Town Hall, Main at South Grove St., East Aurora, New York 14052.

**The resolution was unanimously adopted.**

**Receive & File Reports**

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

**RESOLVED**, that the Town Board does hereby receive and file the following reports: Building Inspector's Monthly Report & Building Permits for May 2005, and the Police Chief's Monthly Report for May 2005.

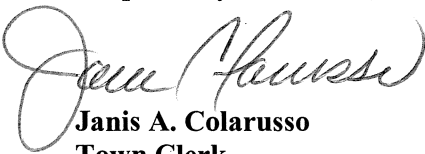
**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Bruce Roche - 4 Kings Court: Mr. Roche asked the Town Board to have the "bogus" No Dogs Allowed signs down in the Town Parks. The Town Board said they would confer with the Town Recreation Commission to evaluate the situation.

There being no business from the floor, on motion by Supervisor Cudney, seconded by Councilman Jemiolo to wit; the meeting was adjourned at 7:47 PM (local time).

**Respectfully Submitted,**



**Janis A. Colarusso**  
Town Clerk