

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 1st day of July 2015 at 7:00 pm, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:

- | | |
|-------------------------|------------------------|
| Patrick J. Keem | Supervisor |
| Eugene Majchrzak | Councilmember |
| Michael Sherry | Councilmember |
| John C. Bailey | Town Attorney |
| Remy Orffeo | Town Clerk |
| Wayne Bieler | Town Engineer |
| Andrew Geist | Building Inspector |
| Frederick Piasecki, Jr. | Highway Superintendent |
| Mark Pacholec | Chief of Police |

Supervisor Keem 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 KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on June 17, 2015, Executive Sessions: June 17 and 24, 2015, Special Session June 24, 2015 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 Rezone Vacant Land on south side of Southwestern Blvd.

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

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, on the 17th day of June 2015, at which time all interested parties were given an opportunity to be heard, which amendment provides as follows:

To rezone .46 acres of vacant land located on the south side of Southwestern Blvd., and west of Hazel Ct. (SBL#153.08-1-1) from R-3 to B-2 for the purpose of constructing a building for retail sales/service, and

WHEREAS, no recommendation from the Erie County Department of Planning, pursuant to §239-m of the General Municipal law was received and filed by the Town Board, and

WHEREAS, approval from the Planning Board was received and filed with the Town Board

NOW, THEREFORE, be it

RESOLVED and ORDAINED, that the Zoning Ordinance and the Zoning Map of the Town of Orchard Park be and are hereby amended by rezoning .46 acres of vacant land located on the south side of Southwestern Blvd., and west of Hazel Ct. (SBL#153.08-1-1) from R-3 to B-2 as follows:

All that tract or parcel of land, situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot No. 404, Township 10, Range 7 of the Buffalo Creek Reservation, and further distinguished as subdivision lot no. 1 as shown on a map filed in the Erie County Clerk's Office under cover number 2030, located on the south side of Southwestern Blvd.

RESOLVED, that this approval is granted with the following stipulations as recommended by the Planning Board:

- This is an unlisted SEQR action based on the submitted Short EAF and a negative Declaration is declared.
- Fees shall be paid in accordance with Section 144-70C, of the Town Code prior to publication of the Public Hearing Notice.
- The recommendation is contingent upon the applicant completing the project as proposed on the preliminary development plans, and shall revert to its original Zoning classification if the project is not completed per Section 144-67 of the Town Code.

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 Section 264 and 265 of Town Law.

The resolution was unanimously adopted.

Old Business #2 Town Board to declare Lead Agency status on petition of Webster Block, LLC

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

WHEREAS, the Town Board sought Lead Agency status on the petition, PB File #12-15, of Webster Block, LLC (Ellicott Development) to construct a 4,902 +/- sq. ft. building which includes a bank with a drive thru and commercial space, located at 3858 & 3862 North Buffalo Road,

WHEREAS, the Planning Board upon review, has requested the Town Board seek Lead Agency status;

WHEREAS, under Town Code this SEQR action is a Type I action;

WHEREAS, no involved agency objected to the Town Board declaring themselves Lead Agency;

NOW, THEREFORE, be it

RESOLVED, that the Orchard Park Town Board hereby declare themselves Lead Agency for Webster Block LLC to construct a 4902 sq.ft. building, which includes a bank with a drive thru and commercial space at 3858 & 3862 North Buffalo Road.

The resolution was unanimously adopted.

Old Business #3 Proceed with dedication of PIP 2014-01, Lyrica Park CMO Phase #3

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

WHEREAS, on June 11, 2015, a final inspection was conducted of the public improvements constructed in Lyrica Park CMO Subdivision, Phase 3. The project included the completion of Sonnet Drive as shown on the attached location map. The completion of this subdivision phase will allow 17 new single family / CMO residential lots to be developed, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the following:

- Supply required spare fuses, poles, and fixtures per Town Standard, and provide UL Inspection Certification for the streetlights \$5,000
- Provide Bernstein Monument GPS survey data as accepted by the Town \$2,000
- Install the walking trail system per revised plan and per the field walk on June 11, 2015
Escrow from Rec. fees \$86,400
- Install the required four property monuments for the Town Recreational Land for trail system \$4,000

WHEREAS, the Town is in receipt of the certified cash securities for the items noted above. A two-year maintenance bond in the amount of \$265,000.00 has been submitted along with all other necessary documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Lyrica Park CMO Subdivision Phase 3 constructed under PIP #2014-01, and authorize the Town Clerk to release the performance security in the amount of \$53,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #4 Approve Change Order #1 to contract with Birch Grove Landscaping

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

WHEREAS, the Engineering Department is requesting Town Board approval of a change order to the contract with Birch Grove Landscaping for the 2015 Right-of-Way Lawn Restoration Project in the credit amount of \$380.00. If approved, this would decrease the total contract amount to \$41,620.00 representing a decrease of 0.009%. This deduction is for the reduction of the Town's standard contractual required 2-year maintenance bond to a 1-year maintenance bond, due to the nature of this project – simple lawn restoration.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 to our contract with Birch Grove Landscaping for the Right-of-Way Lawn Restoration Project in the amount of a credit of \$380.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #1 Supervisor to sign agreement with Skylighters for 4th of July Fireworks

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

RESOLVED, that the Supervisor is authorized to sign the Pyrotechnic Display and Services agreement with Skylighters Fireworks of New York, LLC for July 4, 2015 with an inclement weather day of July 5, 2015.

The resolution was unanimously adopted.

New Business #2 Approve 4th of July Parade

7) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby approve the Annual 4th of July parade on Saturday, July 4, 2015, the parade will assemble at the Orchard Park High School parking lot at 7:00pm and start at 8:00pm.

The resolution was unanimously adopted.

New Business #3 Supervisor to sign agreement with KHEOPS for Grant Task Orders

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

WHEREAS, as previously approved by the Town Board, KHEOPS Consultants are on retainer for 2015 grant writing. Per the Town Board work session, KHEOPS over the past few weeks is developing grant applications for Green Lake trails, Yates Park retaining wall, Green Lake & Dam dredging, fish ladder and potential electric car charging stations, and

WHEREAS, the Town of Orchard Park has received KHEOPS Consultants proposals to complete applications for the New York State Office of Parks, Recreation & Historic Preservation EPFMGP (Trails & Retaining Walls), NYSDEC Water Quality Improvement Program (Dredging & Fish Ladder) and NYSERDA Cleaner Greener Communities Program (Electric Car Charging Stations). KHEOPS proposes to complete these grant applications for \$1,800 lump sum fee for each individual task. The two grant programs for the Green Lake projects are due by the end of July and the grant for the electric car charging stations is due by the end of September, and

WHEREAS, funding has been allocated in the 2015 budget under the Supervisor account code A.1220.403 "Grant Writer" for this work. Project Design & Construction is proposed to be included in the 2015 BAN authorization.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the three Task Orders #5 NYSERDA Electric Car Charging Stations, #6 NYSOPRHP Green Lake Retaining Wall & Trail and #7 NYSDEC Green Lake Dredging & Fish Ladder with KHEOPS Arch., Eng. & Survey, DPC., 300 Pearl Street, Suite 100, Buffalo, New York 14202 for professional services for the Town of Orchard Park in the amount of \$5,400 for the three Task Orders as per the Consultant Agreement, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Supervisor to sign agreement with Village to use compost site

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

WHEREAS, the parties to this agreement are: The Village of Orchard Park, and the Town of Orchard Park with offices at S4295 South Buffalo Street, Orchard Park New York, and

WHEREAS, the Town of Orchard Park operates a compost site at 6909 Milestrip Road in the Town of Orchard Park, and

WHEREAS, the Village of Orchard Park wishes to utilize the services of the compost sites at 6909 Milestrip Road in the Town of Orchard Park,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with the Village of Orchard Park for the Village to utilize the services of the compost site, as recommended by the Town Attorney.

The resolution was unanimously adopted.

New Business #5 Award contract for Orchard Park Library Copper Gutters Repair Project

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

WHEREAS, bids were solicited for copper repairs at the Orchard Park Library. A large amount of damage was sustained to the gutters, downspouts, joints, etc. due to the extremely cold and long freezing/ice periods with the past winter, and

WHEREAS, the project scope of work contains replacement of a length of gutter along the east side, installation of 4 new downspouts, installation of two new gutter sections on the east side entrance canopy, re-mount the few pieces of fascia that have fallen off and repairs to leaking gutter joints. Three contractors were contacted for bids (attached); they are Neth & Son, Copper & Slate and Jameson Roofing Company.

- Neth & Son, Inc. = \$9,638.00
- Copper and Slate, Inc. = \$12,400.00
- Jameson Roofing Co., Inc. = \$13,772.00

WHEREAS, the low bidder for this project is Neth & Son, Inc. at a total cost of \$9,638.00 to complete the scope of work above. These bids do not contain the attachment of all fascia, caulking of material joints and the painting of the entire fascia around the Library that work will be a separate project, and

WHEREAS, currently there are sufficient funds remaining in the H-81 "Library Renovation" Capital account (\$121,939) for this work.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Orchard Park Library – Copper Gutters Repairs Project, to the lowest responsible bidder, Neth & Son, Inc., 146 Taylor Drive, Depew, New York 14043 in the amount of \$9,638.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Approve 2015 Commercial Parking Permits

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

RESOLVED, that the Town Board does hereby approve the following 2015 Commercial Parking Permits, as recommended by the Police Department and Building Inspector:

| | |
|--------------------|---------------------|
| Maureen Jakubowski | 3796 Abbott Rd. |
| Dana Lewis | 5554 W. Webster Rd. |
| Lisa Matwijow | 4155 Abbott Rd. |
| Lee Wannamacher | 3746 Abbott Rd. |

The resolution was unanimously adopted.

New Business #7 Set Public Hearing for Dangerous & Unsafe property at 5928 Armor Duells Rd.

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

WHEREAS, The Enforcement Officer of the Town of Orchard Park has filed his report in writing with the Town of Orchard Park containing his findings and recommendations regarding certain structures on the premises located at 5928 Armor Duells Road, SBL# 172.04-1-20, in which report said Enforcement Officer states his opinion that said structures are unsafe and dangerous to the public and recommends their immediate securing or removal, and

WHEREAS, the Town of Orchard Park after reviewing said report and after hearing said Enforcement Officer in regard thereto and after having duly deliberated upon the same, having determined the said report warrants the removal of said structure.

NOW, THEREFORE, BE IT

RESOLVED, that: (1) notice be given to Katie L. Summers, (2) said notice be served personally upon Katie L. Summers or the County Clerk if such persons cannot reasonably be found for such personal service and by affixing a copy thereof upon said structures, (3) said notice shall order that the structure on the said premises is to be demolished and the debris from that demolition is to be removed from the premises within thirty (30) days of the service of said notice and to be completed within sixty (60) days thereafter, (4) a public hearing has been scheduled at 7:00 pm on July 15, 2015 at the Municipal Building, 4295 South Buffalo Street, Orchard Park, in relation to such dangerous or unsafe structures, and (5) the Building Inspector of the Town of Orchard Park be and he hereby is directed to prepare said notice and arrange for the service thereof in accordance with the requirements of said Local Law and by filing in the office of the County Clerk.

The resolution was unanimously adopted.

New Business #8 Set Public Hearing for Dangerous & Unsafe property at 95 Washington Ave.

13) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

WHEREAS, The Enforcement Officer of the Town of Orchard Park has filed his report in writing with the Town of Orchard Park containing his findings and recommendations regarding certain structures on the premises located at 95 Washington Avenue SBL #161.07-3-14, in which report said Enforcement Officer states his opinion that said structures are unsafe and dangerous to the public and recommends their immediate securing or removal, and

WHEREAS, the Town of Orchard Park after reviewing said report and after hearing said Enforcement Officer in regard thereto and after having duly deliberated upon the same, having determined the said report warrants the removal of said structure

NOW, THEREFORE, BE IT

RESOLVED, that: (1) notice be given to Estate of Ione See, (2) said notice be served personally upon Estate of Ione See or the County Clerk if such persons cannot reasonably be found for such personal service and by affixing a copy thereof upon said structures, (3) said notice shall order that the structure on the said premises is to be demolished and the debris from that demolition is to be removed from the premises within thirty (30) days of the service of said notice and to be completed within sixty (60) days thereafter, (4) a public hearing has been scheduled at 7:00 pm on July 15, 2015 at the Municipal Building, 4295 South Buffalo Street, Orchard Park, in relation to such dangerous or unsafe structures, and (5) the Building Inspector of the Town of Orchard Park be and he hereby is directed to prepare said notice and arrange for the service thereof in accordance with the requirements of said Local Law and by filing in the office of the County Clerk.

The resolution was unanimously adopted.

New Business #9 2015 Summer Seasonal Part-time Recreation Staff

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

RESOLVED, that the Town Board does hereby appoint the following to seasonal positions in the Recreation Department.

2015 Summer Seasonal part time Staff Appointments retroactive to 6/30/15

| <u>Name</u> | <u>Rate</u> | <u>Position (Title*)</u> |
|-----------------|-------------|--------------------------|
| Bailey Popovski | \$9.50 | PT2-D (Att) |
| Ramzi Talhouk | \$9.50 | PT2-D (Att) |

The above appointments are dependent upon the applicant providing the required certifications.

The resolution was unanimously adopted.

New Business #10 Grant exception to Open Container Law

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

WHEREAS, Patrick McMaster of 4295 S. Buffalo St. Orchard Park, NY has requested an exemption for Town Ordinance 97-16 A2 which prohibits the consumption of any alcoholic beverage upon any park or recreation area within the Town of Orchard Park, and

WHEREAS, The exemption request is for July 5, 2015 from 3 PM to 9 PM for a graduation party at the Orchard Park Soccer Complex 6900 Milestrip Rd. Orchard Park, NY 14127, and

WHEREAS, the alcohol would consist of beer and wine, and

NOW, THEREFORE be it

RESOLVED, that an exemption to Town Ordinance 97-16 A2 is granted to Patrick McMaster, 4295 S. Buffalo St., for July 5, 2015 from 3 PM to 9 PM.

The resolution was unanimously adopted.

New Business #11 Chief of Police to sign an extension to Memorandum of Agreement with CSEA

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

RESOLVED that the Town Board does hereby authorize the Chief of Police to sign an extension to the current Memorandum of Agreement with the CSEA for a temporary schedule for the Public Safety Dispatchers as recommended by the Town Labor Attorney.

The resolution was unanimously adopted.

New Business #12 Part-time Public Safety Dispatchers to receive shift differential

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

RESOLVED, that the Part Time Public Safety Dispatchers pay schedule follows that of the Full Time Public Safety Dispatchers and that the Part Time Public Safety Dispatchers shall receive shift differential. Any Part Time Public Safety Dispatcher working second shift (Afternoon), shall be paid \$.35 per hour shift differential for hours worked. Any Part Time Public Safety Dispatcher working third shift (Midnight), shall be paid \$.50 per hour shift differential for hours worked.

The resolution was unanimously adopted.

New Business #13 Accept resignation of Jonathon Torre as full time dispatcher & make part-time

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

RESOLVED that the Town Board does accept the resignation of Full Time Public Safety Dispatcher, Jonathon Torre and let it be further resolved the Town Board does appoint Jonathon Torre as a Part Time Public Safety Dispatcher effective April 16, 2015. His current rate of pay is, range 0003 step B, \$15.32 per hour.

The resolution was unanimously adopted.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem announced that Saturday, the 4th of July Parade would begin at 8:00PM and the fireworks would begin at dusk. The weather looks good for this event.

Councilmember Sherry said at the next work session the Government Efficiency Task Force will give a report relating to the police department.

Chief Pacholec said with the 4th of July parade and fireworks next weekend, people should be aware of the streets being closed. He said that there had been some bear sightings in different parts of the Town. He also noted that the Rolling Stones concert on July 11th will bring thousands of people to the Ralph Wilson Stadium, and that Abbott Road would be closed at 3pm in front of the stadium.

Highway Superintendent Piasecki said the Highway Department has started its milling and overlay projects around town.

19) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #13 following auditing by members of the Town Board and in the funds indicated:

| | |
|---------------------------|--------------|
| General Fund | \$82,253.86 |
| Public Safety Fund | \$31,230.16 |
| Part Town Fund | \$856.33 |
| Risk Retention | |
| Cemetery Fund | |
| Highway Fund | \$58,229.98 |
| Special Districts | \$136,038.10 |
| Trust & Agency | \$911.30 |
| Capital Fund | \$167,772.16 |

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Sherry, the meeting adjourned at 7:25 PM (local time).

Respectfully Submitted,



**Remy Orffeo
Town Clerk**