

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 18th day of August at 7:00 PM, the meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Janis Colarusso	Supervisor
	Nancy Ackerman	Councilwoman
	David Kaczor	Councilman
	Edward Graber	Councilman
	Eugene Majchrzak	Councilman
	Carol Hutton	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

Supervisor Colarusso 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 KAZCOR, TO WIT:

RESOLVED, Executive Session/Special Meetings held on August 4 & August 11, 2010 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.

PUBLIC HEARING

At 7:00 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the Establishment and Creation for Drainage District OPDD 2-3, Birdsong Subdivision Part 3B. Affidavits and Publication of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk.

Supervisor Colarusso asked if anyone in the audience who would like to speak for or against the application for the Establishment & Creation for OPDD 2-3: **No one spoke.**

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

RESOLVED, that the Public Hearing in the matter of the Establishment and Creation for Drainage District OPDD 2-3, Birdsong Subdivision Part 3B, will remain open until the next Town Board meeting to satisfy all legal requirements regarding publication.

The resolution was unanimously adopted.

Old Business #1 Taco Bell, east side of Orchard Park Rd, approve Building Permit

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

WHEREAS, Taco Bell, vacant land located on the east side of Orchard Park Road, (adjacent to Cannan Funeral Home on the north, and Full Gospel Tabernacle property on the south), has requested a Building Permit for the construction of a 2,719 ± sq. ft. for a Taco Bell restaurant, with a drive-through.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize a Building Permit for Taco Bell on the east side of Orchard Park Road, and approve the Site Plan received 7/8/10, as recommended by the Planning Board, 8/11/10, based on the following conditions and stipulations:

- This is a Type II SEQR action based on the submitted Long EAF, Parts One and Two, therefore no determination is required.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens. The building light submission will be reviewed by Planning Board member John Bernard prior to issuance of a Building Permit.
- 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 8/11/10.
- In accordance with the Conservation Board minutes, a three year landscape completion bond in the amount of \$15,085 shall be provided for the Landscape Plan received 5/27/10 which includes 35.6% total green space, prior to the issuance of a Building Permit.
- A variance for Front Yard Parking was granted on 7/21/09 by the Zoning Board of Appeals.
- Town Board Council Member Ackerman shall approve the elevations, exterior building materials and facade prior to issuance of a Building Permit.
- A 15-ft. wide by 156.2-ft. long (.054AC ±) strip of land shown on page C1.04 shall be conveyed to the Full Gospel Tabernacle for the purpose of a utility corridor prior to issuance of a Certificate of Occupancy.
- The Applicant must return before the Board for directional signage review as a separate issue.

The resolution was unanimously adopted.

Old Business #2 Jack Bertsch, 3847 N. Buffalo Rd., approve Change in Use

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

WHEREAS, Mr. & Mrs. Jack Bertsch have requested a Change-In-Use for 3847 N. Buffalo Road, located on the east side and zoned B-1, to allow the applicant to convert the existing residence into an Office for Commercial Use

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the requested Change-in-Use for 3847 N. Buffalo Road, as recommended by the Planning Board, 8/11/10, with the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Short EAF, parts I, & II and a Negative Declaration is made.

- If any changes to the exterior in the future are done, the petitioner must seek approval from the Architectural Overlay Committee.

The resolution was unanimously adopted.

Old Business #3 Joseph DeVincentis, 3836 N. Buffalo Road, approve Change in Use

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

WHEREAS, Dr. Joseph DeVincentis, 3836 N. Buffalo Road, located on the west side of N. Buffalo Road and south of Webster Road, zoned B-3, has requested a Change-In-Use from the existing residence into an Office for Commercial Use for a medical professional referral business.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the Change-In-Use for 3836 N. Buffalo Rd to open an office for a medical professional referral business, as recommended by the Planning Board, 8/11/10, with the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Short EAF Part I & II and a Negative Declaration is made.
- If any changes to the exterior are done in the future, the petitioner must seek approval from the Architectural Overlay Committee.

The resolution was unanimously adopted.

New Business # 1 Orchard Park Jaycees request support & approval for Quaker Arts Festival

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

WHEREAS, the Orchard Park Jaycees' wish to sponsor the 49th Quaker Arts Festival on September 18 & 19, 2010 with setup on September 17th, and they requested approval and support from the Town Board.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the Orchard Park Jaycees' holding the 49th Quaker Arts Festival and be it further

RESOLVED, that the Town Board support the Jaycees' by providing the following:

- One large dumpster to keep the trash under control
- Approximately 30 trash containers
- Supply the Festival with picnic tables to be used by attendees
- Supply and erect snow fencing to section off the exhibitor areas on the Festival grounds
- Pickup & return of cones and barricades from the Comet Flasher by the Highway Department

The resolution was unanimously adopted.

New Business #2 Contract w/NYSDEC for Municipal Waste & Recycling State Assistance program

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

WHEREAS, the State of New York provides financial aid for municipal waste reduction and municipal recycling projects, and

WHEREAS, the Town of Orchard Park, herein called the Municipality, has examined and duly considered the applicable laws of the State of New York and the Municipality, deems it to be in the public interest and benefit to file an application under these laws, and

WHEREAS, it is necessary that a Contract by and between The People of the State of New York, herein called the State, and the Municipality be executed for such State Aid.

NOW, THEREFORE, be it

RESOLVED, by the Town of Orchard Park that:

- 1) The filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized.
- 2) The Supervisor of the Town of Orchard Park is directed and authorized as the official representative of the Municipality to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the State.
- 3) The Municipality agrees that it will fund its portion of the cost of said Municipal Waste Reduction and/or Recycling Project.
- 4) The Municipality or Municipalities set forth their respective responsibilities by attached joint resolution relative to a joint Municipal Waste Reduction and/or Recycling Project.

And be it further

RESOLVED, that this resolution shall take effect immediately.

Councilman Majchrzak stated that NYSDEC approved the application for funding the Municipal Waste Reduction and Recycling Program and based on their review of the application our community is being awarded a State Assistance Contract in the amount of \$296,113.97, which is 50% of the eligible project cost.

The resolution was unanimously adopted.

New Business #3 Authorize permit for Public Display of Fireworks for Buffalo Bills Organization

8) 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 permit for Public Display of Fireworks at Ralph Wilson Stadium for the Buffalo Bills Football Season, starting on 8/28/10 and ending 12/26/10.

The resolution was unanimously adopted.

New Business #4 Schedule Public Hearing for a Local Law for Retirement Incentive Program

9) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing on Monday, August 30, 2010 at the Municipal Center, 4295 S. Buffalo St., Orchard Park at 8:00 AM in the Supervisor's Conference Room for a Proposed Local Law for the year 2010; Electing a retirement incentive program as authorized by Chapter 105, Law of 2010 for the eligible employees of the Town, and be it further

RESOLVED, that the Town Clerk shall publish due notice thereof.

Town Attorney Berkowitz stated that this Local Law will provide that certain employees, who meet all the other requirements of the law, can retire between October 3, 2010 and December 31, 2010 with some additional benefits to them. The idea is to save money for the Town by not replacing those employees.

The resolution was unanimously adopted.

New Business #5 Approve Change Order #3 to Contract with R.B. Mac Construction Co.

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

WHEREAS, The Engineering Department is requesting approval of a Change Order to the contract with RB Mac Construction Co., Inc. for the Orchard Park Municipal Center Renovations Project in the amount of \$11,197.00. If approved, this would increase the total contract amount to \$162,846.00, representing an increase of 7.38%, and

WHEREAS, this Change Order is requested to perform changes in the work scope and additional work not covered under their contract as requested by the Town Board. The additional items and work involve upgrades to the court room window grilles, painting and patching of rooms not originally identified, police interrogation room improvements, clerk handicap divider wall changes, wall brackets, desk and cabinet changes. This change order also involves a credit for not painting the court ceiling as originally planned, and

WHEREAS, the court room window grilles are being upgraded to maintain the historic profile look that is currently in place with the existing windows, this upgrade will total \$3,635.00, and

WHEREAS, the second item is police interrogation room improvements. During the past year, the Police Department suffered some damage from a suspect being held and some additional areas were not painted during the recent renovation of the Department. The Chief proposed some improvements that would provide better control of suspects being held and complete painting for the two additional rooms on the first floor not addressed with the prior content, these upgrades will total \$2,865.00, and

WHEREAS, the third item is the Town Clerk changes. A handicap divider wall needed to be modified to meet current ADA requirements, this totaled \$365.00. There were also changes to shelves, wall brackets, and desk & cabinet modifications to improve functionality; this was completed on time and material, totaling \$932.00, and

WHEREAS, the final items are patch and paint to the basement meeting room, wallpaper removal and patch & paint to the main stairwell and painting of the Court Clerks Office. These items were originally excluded for time and financial constraints but due to the contractor being on site and working, the scopes have been scaled back and are worthwhile to complete now. The Court Clerks paint work was originally proposed under a grant, but that portion of the grant was not awarded, to complete their office updating, the work can be completed under this project for a lesser amount. These three items total \$4,100.00, and

WHEREAS, also, covered under this change order is a credit (\$700) to the Town for the removal of painting the court room ceiling from the scope of work, due to acoustics and financial concerns. This portion of the project can be pushed off for now and can be completed with any other future improvement project, and

WHEREAS, the Town has appropriated funding for the Orchard Park Municipal Center Renovations Project under Capital Project H-14 Municipal Building Reserve and through bond anticipation notes.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #3 to our contract with RB Mac Construction Co., Inc. for the Orchard Park Municipal Center Renovations 2010 Project in the amount of an increase of \$11,197.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Authorize the Advertisement of Bid for Municipal Center Roof Replacement

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

WHEREAS, the Town Consultant for the Municipal Center Roof Replacement, Gary Browne “The Browne Company”, along with the Engineering Department are finalizing the plans and specifications for the Orchard Park Municipal Center Roof Replacement Project. This project scope consists of replacement of the sloped roofs over the original Municipal Center & the original Post Office, replacing the flat roofs over the Municipal Center, Atrium and Police/Court Clerks, along with sheet metal and insulation/vent work, and

WHEREAS, in order for the project to stay on schedule, the Advertisement for Bids should be published on August 20, 2010 with plans available on August 24, 2010, and a bid opening scheduled for August 31, 2010.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the plans and specifications for the Orchard Park Municipal Center Roof Replacement Project as prepared by The Browne Company and the Town Engineering Department and authorize advertisements in the Orchard Park Press and The Buffalo News for sealed bids to be opened for the Orchard Park Municipal Center Roof Replacement Project at 2:30 P.M. on August 31, 2010 in the Supervisor’s Conference Room at the Orchard Park Municipal Center, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Award Contract for Town of Orchard Park Buildings, Floor Cleaning for 2010

12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

WHEREAS, bids were opened for the Orchard Park Building Floor Cleaning Services 2010 Contract for various Municipal buildings on August 12, 2010, and

WHEREAS, the project was bid with a lump sum to Scrub & Seal all Terrazzo & Vinyl Tile Floors and clean all Carpets (entrances, hallways, stairs and rooms) in October 2010 as well as Strip & Seal all Terrazzo & Vinyl Tile Floors and clean carpets in May of 2011. Also included was a unit price option for cleaning individual chairs if needed, currently one chair needs cleaning, and

WHEREAS, the Engineering Department has reviewed the submitted lump sum bid and itemized price of the one contractor who submitted a bid. The lowest bid of \$16,464.80 was below the engineer's estimate of \$17,000.00 for the project, and

WHEREAS, the low bidder for this project was Bieler Janitorial Services, Inc. The company has been in business since 1954 and has successfully completed various similar projects in the past. The required submitted references of similar work scope and size was checked with positive comments. The engineering department has no reservation about their capabilities, and

WHEREAS, there was originally \$32,500 budgeted under A1620.446 which, per the Maintenance Department, presently has proper funding allocated to complete this work scope and the remaining scheduled work for the year, and

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Orchard Park Building Floor Cleaning Services 2010 Contract for various municipal buildings to the lowest responsible bidder, Bieler Janitorial Services, Inc., 3592 North Buffalo Road, Orchard Park, New York 14127 in the amount not to exceed \$16,464.80, as recommended by the Town Engineer.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Henry Heppner – Mr. Heppner feels the Town Board needs to be planning ahead to accommodate the growing need for facilities and programs.

Lou Boehm – Mr. Boehm chastised the Town Board for their criticism of residents who frequent Town Board meetings, and stated that The Buffalo News does not accurately report the anti WalMart sentiment.

Dave Schuster – Mr. Schuster said he bristled at the sarcastic remarks made by the Town Board criticizing residents who frequent the Town Board meetings, and feels that recreation should not be a Town priority.

Deborah Yeomans – Ms. Yeomans stated she was here because of the criticism of involved citizens made by the Town Board. She stated that the Town Board should invest in correction, not in criticism, and dismissive actions.

Howie Holmes – Mr. Holmes stated that the Town should give serious thought to the proposal of taking over Duerr Road.

Ron Stadelmaier – Mr. Stadelmaier wants to know if the Compost Facility makes money, loses money or breaks even, and if the Town has figured out how much it saves in landfill costs for brush & yard waste.

ELECTED OFFICIALS & DEPARTMENT HEADS

Councilwoman Ackerman stated that County Legislator Mills will continue his program of fund raising for the Libraries in his district by holding his Hot Dog Roast on Friday August 20, 2010 from 11:00 AM to 3:00 PM.

Councilman Kaczor stated that the Town received a letter from the Roswell Cancer Institute thanking the Town for adopting a “Tobacco Free” policy for the Town parks and recreational areas.

Highway Supervisor Piasecki stated that the Town is continuing the reconstruction of Ellis Rd. The County is closing the Duerr Road Bridge until November 19, 2010. The County is also starting the milling of Jewett Holmwood Rd.

13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, 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 #16 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$90,795.28
Part Town Fund	\$5,569.39
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$247,946.69
Special Districts	\$34,613.54
Trust & Agency	\$5,440.63
Capital Fund	\$9,533.20

The resolution was unanimously adopted.

COMMUNICATIONS

14) 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 & file the following communication & reports:

Communications

- This is to certify that the Commissioner of Erie County Highways has jurisdiction of the highways of the County of Erie and does hereby close that portion of Duerr Road (CR463) to be closed from Thorn Avenue to Armor Duells Road in the Town of Orchard Park. The road will be closed for bridge replacement beginning Monday, August 23, 2010, through approximately Friday, November 19, 2010, (or sooner if completed) weather permitting.

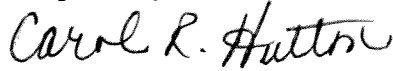
Reports

- Building Inspector's Monthly Report & Building Permits for July, 2010.
- Chief of Police's Monthly Report for the Month of July 2010.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilwoman Ackerman, the meeting was adjourned at 7:43 PM (local time).

Respectfully Submitted,



**Carol R. Hutton
Town Clerk**

