

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 August 2008 at 7:00 PM. The meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b> Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
Mark Dietrick	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
<b>ABSENT:</b> David Kaczor	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.*

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

**RESOLVED**, that the minutes of the Meeting of the Town Board held on August 6, 2008, and the Special Meeting Minutes of the Town Board held on July 30 & August 6, 2008, 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 designation of Edgewood Farms “Harry Yates” main barn, the attached two ceramic silo structures and site, located at 7295 Jewett-Holmwood Road, in the Town of Orchard Park, NY 14127, as a Historic Landmark. Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk.

At this time the Supervisor asked if there was anyone in the audience for or against the designation.

#### **Opponents**

Brian Attea – Attorney for Smokes Creek Estates, LLC, whose managing member is James Jerge, owner of the parcel in question. Mr. Attea stated that according to the experts they hired to evaluate the costs to rehab this site to its original use, it would take at least 2.8 million dollars, and even more if improvements are added. There is no development plan, or long term use, that would justify the type of money required to invest in these properties to rehab and maintain them.

**Proponents**

**Suzanne Kulp** – Town Historian and Vice Chair of the Historic Preservation Board. Ms. Kulp stated that the goal for this parcel is “preservation” not “rehabilitation”. She believes that can be accomplished with \$200,000 to \$300,000 stated by Mr. Attea’s with rehabilitation and restoration.

**Michele Taberski** – Ms. Taberski stated this property is a historic landmark as well as a working stable, to see this magnificent structure torn down would be a tragedy. It is the largest standing barn in New York State, and built with timber that can no longer be obtained or replicated, plus the craftsmanship and intricate wood work of the barn is exquisite and irreplaceable. If Historic Designation is granted, Mr. Jerge could obtain grants and loans from the state to help with the preservation work on the barns.

**Katherine Bihl** – Ms. Bihl grew up in this area and recently moved back. She was able to tour the Yates property with an architect friend from NYC who was awestruck by the spectacular barn and silos. He had just restored a barn in Long Island that was not anywhere as unique as the Yates Barns. Why would we tear down the oldest, largest standing barn in New York State, a historic treasure, to build new homes.

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

**RESOLVED**, that the Public Hearing to hear all interested parties for or against the designation of property located at 7295 Jewett-Holmwood Road, in the Town of Orchard Park, as a Historic Landmark, is hereby closed at 7:21 PM (local time).

**The resolution was unanimously adopted.**

**Old Business #1 Fellowship Wesleyan Church to Erect a Picnic Shelter for Church Events**

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

**RESOLVED**, that the Town Board does hereby authorize a Building Permit for a 24’ wide x 50’ long open pole barn to be used as a picnic shelter for Fellowship Wesleyan Church, 1645 Southwestern Boulevard, as recommended by the Planning Board 8/20/08, with the following conditions and stipulations:

- This is a Type II SEQR Action and therefore no determination of significance is required.
- This height of the structure is 9 feet tall.

**The resolution was unanimously adopted.**

**Old Business #2 Tim Horton’s Restaurant request for a Building Permit 3878 Southwestern Blvd.**

4) 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 Tim Horton’s Restaurant, 3878 Southwestern Boulevard, at the intersection of Southwestern Boulevard and Abbott Road, Zoned B-2, for a 3,080 sq. ft. restaurant with a driver through and approve the site plan received 6/30/08, as recommended by the Planning Board, 8/20/08 with the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Long EAF and a Negative Declaration is granted based on the submitted Long EAF, Parts One and Two.

- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens with house shields. The four poles on the north end of the property shall be reduced to 250-watts.
- 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.
- A three-year Landscape Completion bond in the amount of \$19,381.00 in accordance with Conservation Board minutes shall be provided for the approved landscape plan, which includes 11% interior green space, prior to the receipt of a Building Permit.
- Town Engineering Approval has been granted on 8/13/08. Prior to going to the Town Board, the applicant shall submit to Engineering summary calculations to document that the Site Detention system will aid in decreasing the overall storm water conveyance to Sheldon Road's infrastructure.
- The existing well onsite shall be abandoned per NYSDEC regulations and codes.

**The resolution was unanimously adopted.**

**Old Business #3 Calamar, Inc/Schedule a Public Hearing for a Senior Apartment Complex**

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

**RESOLVED**, that the Town Board is hereby authorized to set a Public Hearing, September 17, 2008 at 7:00 PM for vacant land located at the end of Weiss Avenue, Zoned B-2 and R-3, to consider an SR designation for Eagle Crest Senior Housing, to develop a 90 unit Independent Living Apartment Complex, (Eagle Crest Senior Apartments) as petitioned by Calamar/Senior Services, Inc., and be it further

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

Councilman Graber stated that he is abstaining from the vote this evening due to a conflict of interest.

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Absent
Councilman Dietrick	Aye
Councilman Graber	Abstain

**The resolution was duly adopted.**

**New Business #1 (Tabled) Supervisor to Sign the Agreement w/OP Schools for "Joint Recreational Uses"**: Authorize the Supervisor to sign the Agreement between the Town of Orchard Park and the Orchard Park Central School District for the purposes of "*Joint Recreational Uses*", to terminate in 2011, as recommended by the Town Attorney.

**New Business #2 Accept the Resignation of Mary Popielinski as Recreation Commission Secretary**

6) 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 accept the resignation of Mary Popielinski as Recreation Commission Secretary, effective immediately.

**The resolution was unanimously adopted.**

**New Business #3 (Tabled) Appoint Jenni Carter to fill the Vacancy of Recreation Commission Secretary:** Appointment of Jenni Carter, resident of the Town of Orchard Park, to the Orchard Park Recreation Department to fill the vacancy of Recreation Commission Secretary, for the remainder of the term, as recommended by the Recreation Director.

**New Business #4 Appointments to the 2008 Fall/Winter Staff to the Recreation Department**

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

**RESOLVED**, that the Town Board does hereby authorize the following Appointments to the Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director.

Name	Address	Position	Title	Rate
Christa Gillette	Town of Hamburg	PT2-B	Att.	\$9.00
Elizabeth Devine	Town of Orchard Park	PT1-E	Att.	\$8.50

**The resolution was unanimously adopted.**

**New Business #5 Town Attorney to Proceed w/Dedication for PIP 2008-06, Escrows to be Released**

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

**WHEREAS**, a final inspection was conducted of the public improvements constructed in the Target Addition at Quaker Crossing – Sanitary Mainline Relocation. The project included the relocation of 448 LF of sanitary mainline. The completion of this work will facilitate the completion of the Target Addition at Quaker Crossing, and

**WHEREAS**, all work has been satisfactorily completed in accordance with Town specifications, with the exception of replacement of the GPS Monument that was damaged during construction and final restoration along the easement and right-of-way. We are in receipt of \$3,000 cash security for replacement of GPS Monument with submission of associated survey data and \$5,000 for the restoration within and near the right-of-way – asphalt, curbs, turf and manhole frames, and

**WHEREAS**, a two-year maintenance bond in the amount of \$42,500.00, and easements have 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 sanitary sewer improvements for the Target Addition at Quaker Crossing – Sanitary Mainline Relocation constructed under PIP #2008-03, and authorize the Town Clerk to release the performance security in the amount of \$8,500.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Authorize the advertisement of Bids for OP Library Energy Upgrades**

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

**WHEREAS**, our Consultant Architect for the above referenced project, Wendel Duchscherer, is finalizing the plans and specifications for the Orchard Park Library Energy Upgrade Project which consists of the remodeling of the ceilings, window replacement, lighting replacement, boiler replacement, and asbestos abatement

**WHEREAS**, in order to stay on the project schedule, the Advertisement for Bids should be published on August 21, 2008, and the plans will be available on August 21, 2008, with the Bid Opening scheduled for September 2, 2008,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby accept the plans and specifications for the proposed Orchard Park Library and Highway Garage Roof Renovations Project as prepared by Wendel Duchscherer and authorize advertisements in the Bee, and The Buffalo News for sealed bids to be opened at 11:00 AM on September 12, 2008 in the Basement Conference Room at the Orchard Park Municipal Center, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Business from the Floor**

**Paul Terhaar** – Mr. Terhaar feels that the Town Board should question the validity of the claims made by Walmart as to the benefits that they would bring to the Town, the community and consumers.

**Christine Weyer** – Ms. Weyer asked the Town Board to address the traffic impact on Milestrip Road. (She presented the Town Board with data concerning police calls for accidents, which showed almost 20% of the Town's accidents take place there.)

**Patrick Keem** – Mr. Keem wanted to honor several young men from this area that play baseball on a team that he coaches. He feels the Town Clerk's reporting of the minutes are wonderful.

**Mary O'Leary** – Ms. O'Leary spoke in opposition to the proposed Seneca Creek Company's low income rental senior housing project at the Haas Farm on Milestrip Road.

**Patricia Regan** – Ms. Regan spoke in opposition to the low income rental units Mr. Manko (Seneca Creek Company) is proposing.

**Shirley Speidel** – Ms. Speidel spoke in opposition to the senior housing project on Milestrip Road. She stated the results of a survey done by the Orchard Park Task Force (2003) made recommendations to help maintain and support the rural character of the land.



**Communications and/or Reports**

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

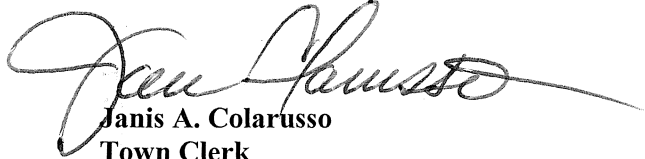
**RESOLVED**, that the Town Board does hereby refer the following Communications and/or Reports listed on the agenda:

- Town of Marilla – Due to the 2006 outbreak of the VHS virus, which impacted fish in the Great Lakes and all the states adjoining the Great Lakes and as a result of such outbreak the Federal Government, imposed a requirement for testing of all hatcheries in the states adjoining the Great Lake. As of today, NYSDEC has suspended their operations, and requiring that all independent aquaculture business. The Town of Marilla sent a resolution requesting NYSDEC resume testing at no cost to the operators.

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilwoman Ackerman, to wit, the meeting was adjourned at 7:49 PM (local time).

**Respectfully Submitted,**

  
Janis A. Colarusso  
Town Clerk

