

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Middle School, 60 South Lincoln Avenue, Orchard Park, New York on the 2nd day of September 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
	Mark Dietrick	Councilman
	Edward Graber	Councilman
	Kathy Swarbrick	Deputy 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: Janis Colarusso Town Clerk

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 GRABER, TO WIT:

RESOLVED, that the two Executive Session Minutes of the Town Board held on August 26, 2009, 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 as previously received copies thereof.

The resolution was unanimously adopted.

Old Business #1 Special Election on 9/23/09 to Determine Number of Town Board Members

At this time, Supervisor Travers Murphy introduced G. Jeffrey Haber, the Executive Director of the Association of Towns and their Attorney, Lori Mithen. They were asked by the Town Board to provide information on the proposed downsizing from 4 council members to 2, as petitioned by Kevin Gaughan. Mr. Haber stated that they were not here to sway the public's opinion, but to give the facts and promote efficient town government. The Erie County Board of Elections demonstrated the new voting machine which accepts paper ballots.

The following people spoke:	Carolyn Coppola	Ed Flynn	Francis Hogankemp
	Paul Becker	Sal Cerrone	Kathryn Gorkiewicz
	Howie Holmes	Dave Bailey	Mary Ann Steviak
	Ron Stadelmaier	Dennis Holdman	Greg Tomani
	Jane Shumaker	Nicholas Taneff	Mary Ann Grenda

This portion of the Town Board meeting concluded at 8:25 PM.

Old Business #2 (Tabled) Approve Final Change Order Release of Retention to the contract with Javen Construction Inc., for the Orchard Park Library Project – General Contractor (tabled 8/19/09).

New Business #1 Approve 2009 Public Stable Permit for Skibbereen Farm & Sandybrook Farm

2) 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 approve the 2009 Public Stable Permit for Skibbereen Farm, 5560 Armor Road, and be it further

RESOLVED, that the Town Board does hereby approve the 2009 Public Stable Permit for Sandybrook Farm & Stable , 6265 Powers Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #2 Appt. of Recreation Department 2009-2010 Fall/Winter/Spring Part-Time Staff

3) 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 2009-2010 Fall/Winter/Spring Part-time 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>
Nicole Augustine	Elma	\$9.50	PT2-D (Lg)
Jarryd Austin	Buffalo	\$9.50	PT2-D (Lg)
Stephanie Battaglia	Orchard Park	\$9.50	PT2-D (Lg)
Andrea Bautista	Hamburg	\$8.00	PT1-C (Att)
Brian Benz	Orchard Park	\$8.50	PT1-E (Att)
Toby Burns	Orchard Park	\$15.00	PT6-D (Att)
Alice Buskus	Orchard Park	\$8.50	PT1-E (Att)
Jennifer Buskus	Orchard Park	\$10.50	PT3-C (Att)
Jenny Capriotto	Orchard Park	\$10.50	PT3-C (Att)
Jessica Carter	Orchard Park	\$10.50	PT3-C (Att)
Brett Doster	Orchard Park	\$9.00	PT2-B (Lg)
Karin Freyer	Orchard Park	\$8.50	PT1-E (Att)
Zoe Gallagher	City of Buffalo	\$10.50	PT3-C (Att)
Christine Gibbons	Orchard Park	\$9.00	PT2-B (Lg)
Emily Graber	Orchard Park	\$9.00	PT2-B (Lg)
Kelli Graber	Orchard Park	\$9.00	PT2-B (Lg)
Matthew Gura	Orchard Park	\$8.50	PT1-E (Att)
Chelsea Hojnacki	Hamburg	\$10.50	PT3-C (Lg)
Emily Horn	Orchard Park	\$8.50	PT1-E (Att)
Arthur Horstkotter	N. Tonawanda	\$9.50	PT2-D (Att)
Liz Imbirowicz	Clarence	\$8.50	PT1-E (Att)
Shannon Jablonski	Cheektowaga	\$9.50	PT2-D (Lg)
Logan Jensen	Orchard Park	\$8.50	PT1-E (Att)
Matt Kielich	Orchard Park	\$9.00	PT2-B (Att)

Flo Kirkner	Orchard Park	\$11.00	PT3-E (Lg)
Margaret Klee	Orchard Park	\$9.00	PT2-B (Lg)
Matt Kordruple	Orchard Park	\$9.50	PT2-D (Att)
Salvatore T. LaDuca	City of Buffalo	\$10.50	PT3-C (Att)
Claire Lewandowski	Derby	\$9.50	PT2-D (Att)
Collin McArdle	Orchard Park	\$9.00	PT2-B (Lg)
Mary Kate McLaughlin	Orchard Park	\$9.00	PT2-B (Lg)
Andrea Pawarski	Blasdell	\$8.00	PT1-C (Att)
Anne Romanello	Orchard Park	\$10.50	PT3-C (Att)
Ed Rowland	Orchard Park	\$15.00	PT6-D (Att)
Stephanie Rowland	Orchard Park	\$9.50	PT2-D (Att)
Alex Shafer	Orchard Park	\$8.50	PT1-E (Att)
Timothy Swyers	Orchard Park	\$9.50	PT1-E (Lg)
John Vinti	Orchard Park	\$9.50	PT1-E (Lg)
Kim Wilder	Orchard Park	\$8.50	PT1-E (Att)
Sarah Yates	Orchard Park	\$9.50	PT2-D (Att)
Jon Zelasko	Orchard Park	\$9.50	PT2-D (Att)

The resolution was unanimously adopted.

New Business #3 Resignation of Recreation Commission Secretary

4) 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 accept the resignation of Jennifer Carter as Recreation Commission Secretary, effective immediately, with regret.

The resolution was unanimously adopted.

New Business # 4 Appointment of New Recreation Commission Secretary

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

RESOLVED, that the Town Board does hereby authorize the appointment of Jessica Carter as Recreation Secretary for the remaining portion of 2009, as recommended by the Recreation Director.

The resolution was unanimously adopted.

New Business #5 Recreation Director to Attend 2009 NYS Assoc of Health Conference

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

RESOLVED, that the Town Board does hereby authorize Recreation Director, Ed Leak, to attend the 72nd Annual 2009 New York State Association of Health, Physical Education and Recreation Professionals Conference, held November 18-21, 2009 at Turning Stone Conference Center, New York. A portion of the cost will be covered by the State and the Town's cost will not exceed \$750.00 with funds available in the budget.

The resolution was unanimously adopted.

New Business #6 Authorize Release of Escrow to Cimato Bros. PIP #2008-01 Eagle Hgts Pt 8, Ph 2

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

WHEREAS, on September 17, 2008, the Town Board accepted dedication of the public improvements constructed in the Eagle Heights Subdivision Part 8, Phase 2, with the stipulation that funds paid by the developer be held in escrow until that work was completed, and

WHEREAS, the developer has since completed the remaining landscaping on Redbrick Road and the portion of Hearthstone Terrace constructed within this phase. The work was inspected by the Engineering Department and found to be in compliance with the Town specifications.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release to Cimato Brothers Construction, Inc., 9220 Transit Road, East Amherst, New York 14051, the \$2,000.00 remaining escrow held for the completion of topsoil, seeding and grading for Eagle Heights Subdivision Part 8, Phase 2, PIP 2008-01 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Approve PIP #2009-04, Weiss Ave. Utility & Road Ext for Eagle Crest Village

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

WHEREAS, the Town has received from Calamar Enterprises, 3949 Forest Parkway, Suite 100, Wheatfield, New York 14120, an application for a Public Improvement Permit to extend Weiss Avenue to facilitate the construction of the Eagle Crest Senior Village at that location, and

WHEREAS, the project consists of the installation of 1,050 L.F. extension of Weiss Avenue and public utilities to serve Eagle Crest Senior Village and two (2) potential commercial lots, and

WHEREAS, the Town Engineer has reviewed the plans for this proposed project and have found them to be in compliance with current Town Specifications and Standards. The Town is in receipt of all necessary fees and insurances. The applicant is requesting to be able to submit a 100% performance bond in place of the standard 10% required bond to facilitate the construction of the PIP at the same time as the building.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the PIP #2009-04 for Weiss Avenue Utility and Road Extensions for Eagle Crest Village contingent upon the submittal of the performance bond, as recommended by the Town Engineer.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Louis Boehm – Mr. Boehm spoke in favor of downsizing the Town Council and term limits.

Jane Shumaker – Ms. Shumaker spoke at length about the Town's bond rating as it related to downsizing and stated it would not affect it.

Kathryn Gorkiewicz – He stated that she was disturbed by the process of downsizing.

Rozanne Redlinski – She stated that she had not yet made up her mind on the issue of downsizing. She stated that in reference to residents volunteering, she had submitted a resume' and has yet to be contacted.

Leon Zwolinski – He served for many years on the Zoning Board of Appeals and believes in the five member board.

Ernest Kupinski – He stated that he was in favor of a five member board and found the council members responsive and respectful.

Ron Stadelmaier – He wondered about the need for downsizing if the savings aren't significant enough. He also wondered how it would affect open meetings.

Sal Cerrone – He offered that perhaps the Supervisor position could be part-time.

Thomas Carrow – He stated that a neighbor is in code violation and asked why he hasn't been cited.

Bob Drahushuk – He stated that this issue should be brought to a vote.

John Reilly – He stated don't change what works well.

Tom Mallone – He stated that a five member board has been serving the citizens capably.

June Kreutzer – He was incensed about a flyer handed out before the meeting.

Paul Becker – He stated that the Town Board has a lack of respect for the residents.

Dr. Patrick Keem – He stated that consolidation of the offices of Town Clerk and Tax Receiver could be combined sooner, and he also commented that the election for downsizing could have been held in different geographic locations within the Town to accommodate the residents.

Henry Heppner – He stated that the Town has grown, but the government has not. He said that our Town is a lean and not bloated government.

Fran Hogankamp – He is in favor of a five member board and our council members are not lifetime politicians.

Gene Majchrzak – He asked that the residents take the emotion out of this election and think about the long term consequences.

Dean Kroll – He stated that the residents are looking for leadership from the Town Board.

Greg Tomani – He asked the Town Board to consider where the cuts can actually be done to save money.

Carolyn Coppola – She asked the Town Board to listen to their constituents so that downsizing would occur.

Howie Holmes – He stated that there have not been political signs posted as per the agreement of the Political Parties.

Hal Fabinsky – He urged the residents to make informative decisions on the issue of downsizing and to keep anger out of their decision.

Nicholas Taneff – He disagreed on how the meeting was handled.

ELECTED OFFICIALS & DEPARTMENT HEADS

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

RESOLVED, that the Town Board does hereby authorize the following budget transfer from the Recreation Department:

\$ 224.50	From: A.7020.419	Other Expenses
	To: A.7020.428	Field Trips

The resolution was unanimously adopted.

Councilwoman Ackerman stated that on Sunday, September 13, 2009 at 7:30 PM the “Town of Orchard Park” program made by the residents, will air on WNET TV at 7:30 PM. Councilwoman Ackerman stated that Kevin Gaughan has forced her to be a better Council person. She gave a report of Bond Rating Issues, Town Financial History Information from the Town Accountant, Wayne Drescher, the Committee and Liaison Assignments, salaries and benefits of the Council members. Councilwoman Ackerman stated that there would be an immediate savings if two Board seats are removed, but it would not be long term. She stated that the Town Board saves the residents money by completing work in house rather than hiring outside consultants, as in the writing of the Comprehensive Plan. The Town Board involvement has saved hiring of a full time Planning Coordinator, which would result in more than the current salary, health care benefits, not currently taken, and retirement benefits. The idea of volunteers has been offered, but the demands on families has caused volunteerism dwindle. The record of the Town Government in Orchard Park over the last two decades is definitely not the hallmark of a failed system.

Councilman Kaczor stated that with the proposed downsizing is the underlying subject of regionalism. He stated that this would put an undue burden on the suburbs and is adamantly opposed to it.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to submit an application to the New York State Office of Parks, Recreation and Historic Preservation requesting \$600,000.00 for the construction of two ponds and nature trails, at the Town owned Brush Mountain Park, and be it further

RESOLVED, upon notification of award, the Town Board does hereby further authorize the Supervisor to enter into and execute a contract with the New York State Office of Parks, Recreation and Historic Preservation. Grant funds will be matched by the Town with \$1.8 million dollars in cash and in-kind goods and services.

The resolution was unanimously adopted.

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

WHEREAS, the Town desires to utilize the services of a physician to conduct medical and fitness for duty examinations pursuant to §207-c of the Civil Service Law and §363 of the New York State Retirement and Social Security Law, as may from time to time be necessary, or for other legitimate work-related purposes.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize Dr. Jerome J. Ulatowski, MD, at 3050 Orchard Park Road, Orchard Park, NY 14127, to act as Town Physician for the purpose of conducting medical examinations pursuant to §207-c of the Civil Service Law and §363 of the New York State Retirement and Social Security Law or for other legitimate work purposes.

The resolution was unanimously adopted.

Councilman Dietrick asked the question "Why Orchard Park? ". He stated that Kevin Gaughan should be putting his efforts toward the State and County governments, not our local one. Councilman Dietrick stated that the Town Board is capably handling the budget and works diligently with other internal boards to keep the hiring of other agencies and ensuing expenses down. He stated that the Council members are well worth the money.

Councilman Graber commented on the merger of the Offices of the Town Clerk and the Tax Receiver. He noted that Tax Receiver, Carol Hutton, is responsible for \$61,000,000.00 of Town money and the consolidation needs to take as much time as needed to be handled responsibly.

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

WHEREAS, this town board wishes to provide sufficient parking for the referendum vote on September 23, 2009.

NOW THEREFORE, be it

RESOLVED, that all employees of the Town of Orchard Park shall park in a location other than the Municipal Center Parking lot on September 23, 2009, except those employees with handicapped parking rights and emergency vehicles, and be it further

RESOLVED that a copy of this resolution shall be inserted in the paycheck of all employees on the next payday, and be it further

RESOLVED that the Chief of Police shall assign sufficient officers to ensure that no vehicles park in the Municipal parking lot, except those vehicles carrying individuals who intend to vote on the referendum, and be it further

RESOLVED that the Town Clerk shall direct voters to enter the polling place through the rear stairway, and exit the polling place at the door leading to the Joll's House, except handicapped individuals, who are invited to use the elevator, as per the Town Attorney.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #17 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$75,820.48
Part Town Fund	\$124.34
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$24,626.70
Special Districts	\$19,427.98
Trust & Agency	\$9,966.98
Capital Fund	\$8,185.87

The resolution was unanimously adopted.

14) 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 to receive and file the following Communications listed on the agenda: **Town of Holland**: Sent a proclamation to the State Senate and Assembly requesting a law to allow smaller government agencies to have the opportunity to choose the lowest salt prices when contracts are presented to them by the State, and **County of Erie County Executive Office**: A notice has been sent stating the Erie County Legislature has designated November 1-30, 2009 as the annual thirty day time period within which a land owner may request predominately viable agricultural land for inclusion to a certified agricultural district in accordance to §303-b of NYS Agricultural and Markets Law.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Graber, the meeting was adjourned at 10:38 PM (local time).

Respectfully Submitted,



Kathleen A. Swarbrick
Deputy Town Clerk